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Ontario
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on the
Legislature

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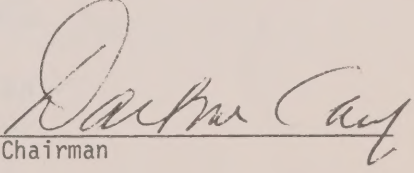
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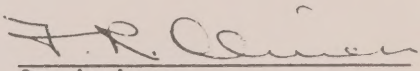
To the Honourable Russell D. Rowe
Speaker of the Legislative Assembly

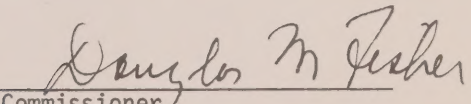
Dear Mr. Speaker,

We, the undersigned, Dalton Kingsley Camp, Douglas Mason Fisher and Farquhar Robert Oliver, appointed Commissioners by Order-in-Council 1960/72 and approved by His Honour the Lieutenant Governor of Ontario on the 14th day of June, 1972, to study the function of the Legislative Assembly with a view to making such recommendations as the Commission deems advisable with respect thereto, with particular reference to the role of the Private Members and how their participation in the process of government may be enlarged, including the services, facilities and benefits provided to the Members of the Assembly,

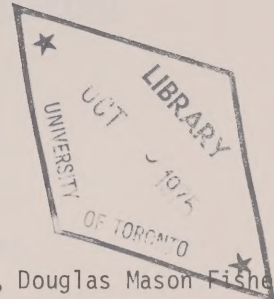
beg to submit to you, Mr. Speaker, this Fourth Report of the Commission.


Chairman


Commissioner


Commissioner

September, 1975



ONTARIO COMMISSION ON THE LEGISLATURE

COMMISSIONERS

Dalton K. Camp (Chairman)

Douglas M. Fisher

Farquhar R. Oliver

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Robert J. Fleming

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PREFACE

The Commission has chosen to issue a Fourth and a Fifth Report, partly to cut down the bulk of one volume, but more to have a separate publication for the Fourth Report.

The Fourth Report is likely to be of particular interest to the Members and the staff of the Ontario Legislature simply as a critical analysis of how the institution functions and how it might function better.

The Fifth Report focusses more on aspects of the Legislature such as buildings, services, and electronic media coverage.

There are no acknowledgements in this Fourth Report. These will be found in the Fifth and final report. The Commission has had, of course, excellent co-operation from the Speaker's Office, the Members and the caucus staffs of the 29th Legislature in developing this Report.



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INTRODUCTION
to
THE WORK OF THE LEGISLATURE

The main part of this report, which analyzes how the Legislature spends its time, differs somewhat in its presentation from our previous reports and the final part of this report. This is because we anticipate that its treatment will be different.

We present it as a document of description, analysis and recommendations which we hope would be discussed in detail by the Legislature - probably by being placed before the Standing Committee on Procedure for study. Accordingly, though we have made a number of specific recommendations, we have not extracted them or listed them separately. Our hope is that our proposals will be looked at as a whole and examined in their inter-related context, and that the Legislature will make its own evaluation of their suitability.

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The commissioners meet these general realities in considering recommendations for reform or change in the role and procedures of the Ontario Legislature, particularly as they relate to the role and effectiveness of the Private Member.

First, the Legislature - from its printed record; from journalistic analysis; from the surveys, chats and discussions we have carried out - is not, and has not been, given much contemplation as a parliamentary institution. There isn't any body of critical literature or substantial recommendations for reform. It has not been a subject that is much discussed by anyone, including caucuses or political parties.

Second, there is a surprisingly proprietorial attitude towards the Legislature on the part of almost all members of all parties. One hesitates to use the phrase "a club" but there is a private clubbiness.

This holds true despite a highly-developed partisanship which is not hesitant about blaming "the other guys" for what may not seem right or good.

Third, there is really no one in the Legislature as Member who can be considered, or who is considered, by his colleagues as an expert on parliamentary reform or as an authority on parliamentary traditions and procedures.

Fourth, trends towards longer sessions with the handling of more legislation and the devolution of more work to committees, have been gradual, taking place with such relative smoothness that few MPPs appreciate the scale of change in legislation and supply provisions. The two Premiers before the present one really functioned as their own House leaders and floor managers. The present Premier has delegated such duties in large part to others, particularly the House Leader.

In sum, the MPPs of Ontario seem generally fairly satisfied with their forum as an institution. As one of the veteran Press Gallery members commented in a note after previous discussions with us, and in a serious attempt on his part to boil the reigning situation down to a few words: "Simply, there isn't much in the way of parliamentary spirit in the Churchill sense about in the Ontario Legislature." Of course, this is a different era and the Legislature has never had the awesome responsibility of the British Parliament.

All this sounds rather rosy, as though there is no rich ground here for change. Such an appraisal has its illusions.

The one grand exception to this non-critical attitude about the Legislature is widespread and pervasive in all three caucuses, although it is expressed with more irritation and occasionally with outrage by Members of the Opposition. The business of the House is arranged and carried out in an inefficient or haphazard manner.

The scheduling of what the Legislature will be doing, or actually does, is arranged without enough prior notice, without sufficient consultation between the parties. As a consequence, there are flat days and weeks without much pressure; then there will be speed-ups and near bedlam just before recess. It seemed evident to us from both the rather abashed explanations for the past on the part of Government Members and Ministers and from the querulousness of the Opposition, that there is substance in this general criticism, without any indication that it is as a result of calculation on the part of the Ministry.

Early in its study the Commission had a clear opinion from the Premier that he was most willing to look favourably on suggestions for a better planning of legislative business, even to attempting the establishment of a routine parliamentary year which would spread the sittings and recesses more evenly over the twelve months.

The practices of the Legislature regarding the scheduling of its business would seem to us to have been shaped over long years by a powerful but rarely expressed myth that the important role, ahead of any others, for the Ontario Legislature is to let the Government govern. That is, the prime purpose of the Ministry and the administration is to provide services and facilities to the citizens of Ontario, and to report on this to the Legislature on occasion for approval. There isn't much place in this myth for the parliamentary and democratic ideals of participation, confrontation, examination and discussion of policy and policy alternatives in the Legislature, on any basis of equality in importance with the theme of the Government governing.

To be fair to the Government of Ontario, there is much more to this over-reach of governing over legislating and scrutinizing than the fact that one party has held power for so long in Ontario. It is surely a consequence of the comparative smallness and intimacy of the Legislature, and of the fact that the Legislature is located in Toronto which, ~~as a~~

which, as a commercial, industrial, communications and entertainment centre, has a national writ and focus.

In Toronto, as is and has been, it has been hard for the Provincial Legislature and its Members, given the relative inattention of the city around it to provincial politics, to take their legislative roles as seriously as those of watching the Government govern and of minding their constituencies. Although the Legislature of Ontario now meets for as many days a year and now deals with as much money and even more legislation than did the House of Commons a dozen years ago, there has been nothing like as much editorial and scholarly interest in it as there was and is in Ottawa.

This helps explain why there isn't anybody of scholarship calibre who analyzes and puts forward a catalogue of suggestions to improve the working of the Ontario Legislature. It explains why there is almost a vacuum at Queen's Park in both knowledge and application of parliamentary rules and procedure.

The Commission does not want to suggest, even vaguely, that the Ministers in Ontario and their senior officials have any contempt for the Legislature, or view it as merely an inconvenience to be suffered or ignored. On the other hand, it seems clear that the Legislature and its business have nothing like the priority they probably deserve in the plans of those who draft legislation and prepare Estimates. That is, we cannot conceive that the senior people in the on-going Government of Ontario give sufficient consideration to the time and the purpose of the Legislature.

It is fair to observe at this point, however, that the commissioners have not found anything like the antagonism between elected Members and civil servants which can be found in Ottawa. A common response from MPPs of all parties was that the officials "are pretty good on supplying me with information and in helping me with the problems of my constituents."

Implicit in this favourable attitude of Members towards civil servants, however, is an attitude towards their own role as elected Members which we remarked upon in our First Report. This is the "constituency syndrome" - the belief that the priority role of the Member is to look after his "caseload" rather than to be a legislator and a scrutinizer of Government spending.

In an earlier Report we dealt partially with this inversion of the Member's role. We recommended better pay and services to support our postulate that being a Member of the Provincial Parliament is a full-time job. We recommended substantial living allowances in Toronto and fully subsidized air and automobile travel to and from constituencies, in order that Members could give more time to their legislative role.

We recommended that there should be the post of House Leader in each of the parties, sustained by staff, and that the Government House Leader should have portfolio rank and not have a line department; we suggested, in effect, that he should be seen as something like a Deputy-Premier.

We recommended extra allowances and more staff for party whips, so caucuses would be better managed for legislative functions. And, of course, our recommendations regarding a full-time secretary for each MPP, a larger research establishment in the Legislative Library, and a strong research support for party leaders and the parties, were made with the legislative and scrutiny functions in our minds. All this is reiteration, of course, that the Legislature in Ontario must see itself much more as a Parliament, and that the Members of all parties must take a more active, participating role in the questioning and in the debates of the Legislature.

There is one generalization that we make with some hesitation after a careful appraisal of how the Ontario Legislature spends its time. It is simply that the Members in Opposition to the Government, individually

and in their parties, have not been persistent or zealous in taking advantage of the rights they have under the rules of the Legislature and the British parliamentary traditions, in order to defend or even to assert their responsibilities.

For example, the small use, or the disuse, of such procedures and rights as written questions, motions for the production of papers, the raising of grievances at adjournment, the presenting of want-of-confidence motions at each opportunity, and the failure to use points of order and points of privilege in response to inconsistent and even improper procedures by Government, are the reasons why we think it most unfair to put the fault upon the Government for the precedence which is accorded to the view that the Government governs, and that the prime task of the non-Ministerial MPP is to take care of his caseload.

One finds that the strongest stereotype of legislatures in the British tradition has been created out of an interpretation gained by the media and, to a degree, by the Members themselves from the daily Question Period. We analyze this aspect of the Ontario Legislature more fully later on. The paradox we wish to note about the Question Period is that of the bemused outsider in the gallery who is bewildered by the contrast of the uproar, the free-flow, the disdain for formality and the rules of order and procedure of this opening period of the day, and the post Question Period hours when speakers address small and usually inattentive numbers of their colleagues. This contrast from boyish rowdiness to a normal flaccidity can only be explained, if you accept what the MPPs say, by the argument that the Question Period is the only time when the array of both Ministers and members of the Press Gallery are present. Obviously, the Question Period is savoured as the daily feast of partisanship and newsmaking. As a general opinion, it seems to us that more formality and a more strict exercise of the rules of relevance and of courtesy would not emasculate the Question Period of its vitality, and would give better opportunities to more Members.

There is always an element in the parliamentary system of government which makes the legislature a forum for a never-ending game of partisan attack and defence. The generally-held view among politicians is that this is where the rise or fall in party fortunes is determined between elections. Nothing that we recommend is designed to block such partisan gamesmanship. However, if there is too much stress upon it in the Question Period, and not enough of it in debate or legislation and supply, particularly in the presentation of policy and alternatives, the integrity of the legislature as a legislature is harmed.

The tendency increases for the focus of politics to go more and more onto the party leaders, particularly outside the legislature. No one, including the commissioners, can really describe the best balance of partisan activity, with a general responsibility for ensuring good legislation and a sound examination of Government spending. It is our general warning, however, that Members and their parties should show more critical concern about the standards of debate and the levels of participation in the Legislature as a whole.

HOW THE LEGISLATURE SPENDS ITS TIME

This depiction of the Ontario Legislature is based largely upon the Third Session of the 29th Legislature (1973). We have gone over the subsequent sessions merely to qualify the account where adjustments in proceedings have, or seem to have, taken place.

1. MINISTERIAL STATEMENTS

Statements may be made by Ministers at the opening of a daily sitting, informing Members of the House of matters of importance which have arisen with respect to their ministries. In principle they are to be as short as possible, and used solely to convey information. In practice they are sometimes not so short and, upon occasion, more provocative than informative. No advance notice is required for such statements, and the Opposition parties have no right to reply to them.

During the Third Session of the Legislature there was an average of two ministerial statements per sitting day. Just over 2% of total sitting time was taken up by their delivery. The pattern in the Fourth and Fifth Sessions has been generally similar.

2. QUESTION PERIOD

Forty-five minutes of every sitting day is allocated to the Oral Question Period. At this time Members may question Ministers on matters of urgent public importance. (Ministers may refer questions concerning boards and commissions to Members who sit on the boards, but a parliamentary assistant may not answer a question, even if his Minister is not in the House.) It is felt that the time of the House should not be taken by a question which does not meet the criteria of urgency and public importance, since a Member can ask any question by placing it

on the Legislature Notice Paper. Both questions and answers should be as brief as possible; in the putting of a question no argument or opinion is to be offered; and only those facts which are necessary to explain the question may be referred to. It is the responsibility of the Speaker to see that all questions and answers are in order and to allow, when requested, a reasonable number of supplementary questions arising out of a ministerial reply. No rulings by the Speaker in relation to Question Period may be challenged. In fact, very few rulings are made; questions and/or answers are virtually never ruled out of order.

By tradition the Leader of the Official Opposition asks the first question, and as many other "main" questions as he wishes. That is, he has the initial and continuing priority of recognition by the Chair. Any Member may ask a supplementary question at any time. Indeed they do. A trend in the last session of this Legislature ran to more and more supplementaries to the initial question of the Leader of the Official Opposition, and to the initial question or the supplementary (to the question put by the Leader of the Official Opposition) from the Leader of the Third Party. Both the Opposition leaders make much of their priority and the latitude it gives them.

During the Third Session about 45% of the Question Period was taken by questions of the two leaders and the related answers, slightly more of this time being taken by the Leader of the Third Party. The remaining time was taken by Backbenchers of all parties. However, participation among Government Members was low, averaging less than a question a day.

The clearest point about the practice of questioning is that most of the questions from those who are not party leaders came out of questioning initiated by the leaders. The reality is that not much time is left on most days for Backbenchers after the leaders have had their run. This domination by the leaders probably reflects the lack of specialization and specific expertise by other Members of the caucuses, and the

accepted view in Ontario politics that the party leader bestrides all the activities of the party and the caucus. He symbolizes the party role in the Legislature. An obvious difficulty of the practice is the problems it raises for the Speaker in following through the myriad of supplementaries.

Slightly more than 15% of the Legislature's time was taken by Question Period in the Third Session. More of this time was taken to answer questions than to ask them, in a ratio of about 3 to 2. (Again, the pattern of the Fourth and Fifth Sessions was similar.)

3. ADJOURNMENT DEBATE

A Member who is not satisfied with the response to his question, or whose question has been ruled out of order by the Speaker, may give notice that he intends to raise the subject matter on the adjournment of the House. Such matters are dealt with on Tuesdays at 10:30 p.m. At that time the Member may take five minutes to explain his dissatisfaction and the Minister, if he wishes, may reply for five minutes. Up to half an hour may be used in this manner; if there are more Members wishing to raise issues than can be accommodated during that time, the Speaker decides the order in which Members will be called, usually after consultation with the parties involved.

On those Tuesdays when the House sits beyond 10:30 p.m., these adjournment proceedings are suspended.

During the Third Session ten issues were raised on seven Tuesday adjournments (the majority of these were raised by one Member). Even less use was made of the adjournment debate in the Fourth and Fifth Sessions; and we have the strong impression that those few MPPs who have tended to use it are under some restraint from their colleagues who feel it extends sitting time and is an inconvenience. A negligible amount of time has really been taken up by the adjournment debate in any session.

4. PETITIONS

A Member of the Legislature may present a petition to the House on behalf of a petitioner or group of petitioners (other than himself), asking for redress of a grievance or requesting that the Legislature take some action with respect to a matter of public policy. Opportunity is afforded daily for the presentation of such petitions, and for a short statement of the allegations contained in the petition. However, the opportunity is seldom used. Nine were presented during the Third Session, five of which were in connection with Bill 274 - An Act to Amend the Ministry of Education Act. The time used in this connection was negligible. Even less use was made of petitions in the Fourth Session. The Chair's attitude to petitions is firm, requiring that each be properly framed, and it be clear that those who signed it knew what they were signing.

5. PRESENTING REPORTS AND TABLING DOCUMENTS

There is also a daily opportunity to present information formally to the House. Certain ministries and agencies are required by Statute to report annually to the Legislature, which they do through the responsible Minister. In addition, Ministers may wish to table letters, documents, policy papers, reports, etc. which they feel are of interest to the Legislature or which have been requested by Members. Answers to written questions on the Order Paper are also tabled; these are subsequently printed in Hansard, unless they are unusually lengthy, in which case they are filed with the Clerk of the House. The chairmen of standing or select committees also use this opportunity to present their committees' reports. They only move the adoption of these reports when the latter are of a routine nature (e.g. requesting permission to sit concurrently with the House, reporting bills studied by the committee, etc.) and hence little debate ensues. Chairmen are free, on the instruction of their committees, to move the adoption of more controversial

reports, but they have not done so in the recent past. Were adoption to be moved, debate would probably be adjourned quickly and scheduled for another time.

(In the Fourth Session there was what we would describe as a "good" debate on the report proposing experimental substitution on the committees of the House.)

This item, or part of the procedure, consumes little time - really a negligible amount in relation to its potential.

The following is a survey of the information presented to the House during the Third Session:

<u>Standing Committee reports</u>	27
<u>Select Committee Reports</u>	9
(Background Reports for the Select Committee on Economic and Cultural Nationalism)	10
<u>Reports required by Statute</u>	49
(A further 28 are required by Statute but were not tabled)	
<u>Reports, papers, etc. not required by Statute</u>	54
<u>Answers to questions on the Order Paper</u>	28
(There was an average of 8 weeks between the appearance of a question on the Order Paper and its being answered. 10 questions were not answered by the Ministry, and 2 were withdrawn.)	
(All items tabled are recorded in Hansard and in the Votes and Proceedings.)	

6. GOVERNMENT BILLS

The single most time-consuming piece of business with which the Legislature deals is the Government's program of legislation. This is

done in four, and often five, stages:

First Reading is the formal introduction of the bill into the House. To be introduced the bill must be in complete and final form, and copies of it are made available to the Opposition leaders and in the office of the Legislative Counsel. The Minister introducing the bill may make a brief explanation of its purpose, but the motion for introduction is not debatable. Divisions on whether or not a bill is to receive first reading are rare (there were two in the Third Session). In this connection there seems to be some confusion as to whether approval of first reading is merely a device to enable a bill to come before the House for examination, or whether it implies some preliminary approval of the bill itself.

First reading is not a time-consuming process; it took less than 1% of sitting time in the Third Session.

Second Reading is the approval in principle of a bill, and it is at this stage that the most substantive debate occurs. No limit is placed on the length of the debate or of the speeches - although, with the exception of the Minister or parliamentary assistant responsible for the bill, no Member may speak more than once. (In theory, a Member may also speak once on any amendment, but the latter are generally organized so Members speak on the bill and proposed amendments at the same time.)

Bills must be printed and distributed before going to second reading; however, this requirement may be dispensed with by unanimous consent. Only two kinds of amendment may be offered to the bill at this stage - a "reasoned amendment" which itemizes the mover's objections to the bill and consequently does not entail outright rejection of the bill, and a "hoist amendment" which calls for the bill not to be read a second time immediately but at some specified day in the future, and which entails complete repudiation of the bill. Notice of the former must be

filed by 5:00 p.m. on the day before it is to be moved; the latter requires no notice. Debates on second reading consumed 25% of the Legislature's sitting time during the Third Session.

Committee Stage With unanimous consent a bill may proceed directly from second to third reading, and in the Ontario Legislature a high proportion of bills do. (Of the 177 Government bills passed in the Third Session, 94 - or 53% - went directly to third reading.)

When unanimous consent is denied the bill is sent to committee - either the Committee of the Whole House (i.e. the House itself in a more informal setting), or a standing committee. The choice of which kind of committee is left to the Minister.

There is nothing to preclude a bill being considered in committee on the same day it receives second reading and, in fact, this frequently happens.

Most bills are dealt with in Committee of the Whole House. (Only seven bills were sent to standing committees in the Third Session and of these three were subsequently considered in Committee of the Whole after being dealt with by the standing committee.) In Committee of the Whole, the Speaker is out of the Chair (his place being taken by the Chairman of the Committee of the Whole) and debate is at its most informal. This is the detailed clause-by-clause study of the bill. MPPs can speak as often as they wish, and can offer amendments without giving notice. (Indeed the latter are often scribbled out on the floor of the House and passed to the Chairman as they are moved.) On occasion, particularly during the rush before a recess, the Chair and the Members have a most confusing time with "stacked up" amendments, often on the same clause, and offered by three or more different Members. A bill which has been reported from a standing committee may be referred to the Committee of the Whole House, but it cannot be considered until the second day after the referral. If it has been amended in committee it has to be reprinted before it is considered.

Slightly more than 13% of the Third Session was spent in Committee of the Whole.

Third Reading is the final approval of a bill and, unless the bill has been amended in committee, it can take place on the same day as second reading and/or the committee stages. Debates are rare and divisions are even rarer, though they do occur on some more controversial legislation. Since at this stage both the principle and detail of the bill have been approved, the amendment most usually offered is a "hoist" amendment as referred to earlier (i.e. that the bill be not read now but be read at some specified date in the future).

A negligible amount of time was devoted to debating third readings.

Royal Assent In order to become law a bill must be assented to by the Lieutenant Governor. This may be done in the House or in the Lieutenant Governor's chambers. Royal Assent is the most formal and least time-consuming stage of a bill's passage.

(see next page)

	Number of bills	Number of days between the commencement of one stage to the commence- ment of the next stage <u>ON AVERAGE</u>	Minimum and maximum number of <u>days taken</u>
1) <u>ALL GOVERNMENT LEGISLATION</u> <u>which passed</u>			
1st Reading to 2nd Reading	177	9.5	0 - 39
2nd Reading to 1st* committee report or 3rd Reading	177	1.6	0 - 39
Final*committee report to 3rd Reading	83 (excluding those which didn't go to committee)	1.4	0 - 7
1st Reading to 3rd Reading	177	12.5	0 - 62
2) <u>ALL SUBSTANTIAL LEGISLATION</u> <u>which passed</u> (an admittedly subjective assessment which excluded purely "housekeeping" legislation from the total)			
1st Reading to 2nd Reading	94	9.8	1 - 39
2nd Reading to 1st committee report or 3rd Reading	94	2.0	0 - 31
Final committee report to 3rd Reading	61	1.2	0 - 7
1st Reading to 3rd Reading	94	12.8	1 - 62
3) <u>ALL MAJOR AND/OR CONTROVERSIAL</u> <u>LEGISLATION</u> (excluding house- keeping and substantial but "minor" legislation)			
1st Reading to 2nd Reading	28	10.5	2 - 36
2nd Reading to 1st committee report	28	3.1	0 - 31
Final committee report to 3rd Reading	27	1.1	0 - 5
1st to 3rd Reading	28	15.4	1 - 62

*The distinction between "first" and "final" reports only applies in the three cases in which bills were dealt with in standing committee and Committee of the Whole.

7. GOVERNMENT MOTIONS AND RESOLUTIONS

Basically those motions moved by Government fall into two categories - those concerning routine proceedings and those dealing with more substantive questions. According to the Standing Orders, those in the latter category require notice - that is, they must appear on the Order Paper before they can be moved. The former, because of their routine nature, do not require notice.

During the Third Session, the Government gave six notices of motion dealing with the following areas:

- (1) That the House approve the Budgetary Policy of the Government (see Budget Debate, below);
- (2) That a select committee be appointed to investigate the Hydro building;
- (3) That the House consider the report of the select committee on the Hydro building;
- (4) That the House concur in a recommendation of the select committee on the Hydro building (this item was never dealt with by the House);
- (5) That the House confirm an Order made under the Parkway Belt Planning and Development Act 1973, and filed as a Regulation;
- (6) That a Redistribution Commission be established.

Among the motions moved as routine proceedings with no notice were those dealing with the establishment of standing committees, extending the hours of House sittings, Wednesday adjournments for committee meetings, referral of estimates to committees, and interim supply (the latter authorizing Government expenditure, with no limits on the amount or the time period, while the House considers the estimates).

In the Fifth Session notice was given of an interim supply motion,

but it was passed under routine motions - i.e. without debate. No time frame, no limit by percentage of expenditure - this was a "blank cheque".

Government motions generally, though not always, lead to a vote, though only in the cases of items (1) and (5) above were formal divisions held. However, the passage of a motion such as (3) above leads to the holding of a debate which is not related to a motion and in which no vote is taken.

In the Fifth Session there was debate and a division on the motion to set up committees.

Disregarding the Budget Debate, which is dealt with below, most debate in connection with Government motions during the Third Session concerned items (2), (5) and (6). In all, 2% of sessional time was devoted to debate on Government motions.

8. DEBATE ON THE SPEECH FROM THE THRONE

Every session of the Legislature is opened by a speech delivered by the Lieutenant Governor outlining in general terms the legislative program which the Government proposes to undertake during that session. The speech is followed by a wide-ranging debate on the presentation of an address to the Lieutenant Governor thanking him or her for the Speech.

The debate is traditionally opened by two Government Backbenchers, one who moves the address and the other who seconds it. The Leader of the Official Opposition is called next. He usually concludes his speech by moving an Amendment to the Address, expressing regret at the omission of certain items from the legislative program. He is followed by the Leader of the Third Party, who is permitted to move an Amendment to the Amendment moved by the Official Opposition Leader, in which the Third Party expresses its reservations about the Government program. There is no limit to the number of speakers who may participate in the Throne

Speech debate, nor is there a limit to the length of any of the speeches. The Speaker's nod rotates among the three parties as long as each has representatives who wish the floor; generally an attempt is made by the whip to keep the Speaker informed as to who is on deck for his party.

The overall constraint on the debate is that it must be concluded before the Budget Address. This generally results in a marathon, late night into early morning sitting on the day before the presentation of the Budget, in which most Members who have indicated an intention to speak are given an opportunity so to do. Although an attempt is made to accommodate all Members, the opportunity to speak during the Throne Speech Debate is not a privilege of membership and cannot be claimed by a Member as a matter of right.

Speeches delivered at this time are probably as varied as occur at any time during the session. The only common element is the traditional salutation and congratulations to the Speaker with which each Member begins. From there he may go on to extoll the virtues of his constituency, to claim Government neglect or praise Government support of his area, to deal at length with an issue (or issues) of particular interest to him, or to comment upon any matter of recent (or not so recent), urgent (or not so urgent), public (or not so public) concern. There is no requirement that he deal directly or obliquely with the content of the Throne Speech, though many Members do. In the Ontario Legislature this occasion is sometimes used by Ministers wishing to deliver statements on Government policy of unusual length.

During the Third Session the Throne Speech Debate took place over 12 days. Forty Members took part - 13 New Democrats, 14 Liberals, and 13 Conservatives. The New Democrats took almost twice as much time as the Conservatives, with the Liberals falling in between. In all, about 5% of the Third Session was devoted to the Throne Speech Debate.

In the Fifth Session there was no marathon on the Throne Debate

(nor on the Budget Debate). Fewer and fewer Members seemed anxious to speak. The mover of the address in reply had one day's notice. Attendance for both Debates worsened session by session over the Legislature. Our strong impression is that the semblance of a quorum is provided by the veteran backbench Members of the Legislature.

9. BUDGET DEBATE

The format of the Budget Debate is not unlike that of the Throne Speech Debate. It is as wide-ranging in terms of content, and even more unlimited in terms of the time allocated to it.

The Debate begins in a somewhat different fashion than does the Throne Speech Debate. The Treasurer moves the approval of the Budgetary policy of the Government in the course of delivering the Budget Address. This motion is seconded, without a speech, by a Member of the Ministry.

The Financial Critic of the Official Opposition is next to take the floor, usually at a one or two day interval following presentation of the Budget. His speech, and that of the Financial Critic of the Third Party who follows him in turn, deal specifically with the content of the Budget Address and with the financial affairs of the Province. They conclude, as in the case of the Throne Speech Debate, with the moving of an Amendment (and in the case of the Third Party an Amendment to the Amendment) which enumerate the Opposition objections to the Budget. Subsequent speeches (particularly as they become more removed in time from the date on which the Budget was presented) are less likely to be addressed specifically to the Budget, and more inclined to deal with the general sorts of topics raised in the Throne Speech Debate.

The two Debates - on the Budget and the Throne Speech - have the chief advantage to any Member of affording him an opportunity to get the floor and to talk at any length on any subject(s) he wishes. The

only limitation is that a Member may only speak once in each debate. The Budget Debate, which ranges over a number of months, also affords certain advantages to the Government when it comes to arranging its business. Because it can be resumed at any time, it can be used as "filler" or as a "breathing space" at a time when controversial business is under consideration. (An example of the latter might be seen to have occurred during the Third Session, when consideration of Bill 274 concerning teachers' resignations was broken off for a day while the Budget Debate was resumed.)

In the Third Session the Budget Debate took place over 11 days (including the day of the Budget presentation) - 3 days in April, 2 in May, 2 in June, 1 in October, and 3 in December. Thirty-four Members participated: the 11 New Democrats took the most time; the 12 Conservatives were next; and the 11 Liberals used the least time. Just under 5% of the Session was devoted to a debate on the Budget.

We do not have statistics to substantiate our clear impression that Ministers and their parliamentary assistants are unable to give time in the House to either of the two major debates. Beyond the courtesy of the Premier and the Treasurer in listening to the "lead-offs" of the other parties, these debates really consist of Backbenchers speaking to other Backbenchers.

10. SUPPLY DEBATE

Following the presentation of the Budget, the House begins examination of the Government's Estimates of Expenditure for the fiscal year.

The consideration and granting of supply is one of the most ancient responsibilities and rights of a legislature operation in a parliamentary tradition. It is a right because, traditionally, the legislature can demand redress of grievances before granting supply. Historically this right arose from the legislature's (or parliament's) ability to withhold from the King money he required to run his household until he acceded to

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Estimates referred to standing committees must be so referred within 30 sessional days of the Budget, and must be reported back by the committee within 75 sessional days of the Budget. For these purposes sessional days include Wednesdays on which the House is adjourned to facilitate committee meetings. However, Wednesdays are seldom used by standing committees considering Estimates; for most MPPs it is a mid-week holiday from work that is specifically legislative. The committees tend to do most of their work at the same time as the House is sitting. During the Third Session, as is the custom, Wednesdays were not used for Estimates consideration; however, with all this unused time behind them Members found themselves within two days of the date by which referred Estimates must be reported back without having begun consideration of the Health Estimates (Health having been one of the ministries referred to a standing committee). In the event, a special order was passed allowing a few extra hours for a cursory examination in committee and a 2½ hour debate on concurrence in the committee's report in the House.

Setting aside the time spent examining Estimates in standing committees, the House in Committee of Supply itself spent just under 15% of its time considering the Main Estimates.

After passage of the Main Estimates the Government may bring in Supplementary Estimates to provide for expenditures not foreseen at the time of the Main Estimates being prepared. There are no rules governing the procedure for handling Supplementary Estimates in the Standing Orders. In practice they are generally dealt with in the Committee of Supply in much the same way as the Main Estimates, but with no time limits applying. The Legislature spent less than 1% of its time dealing with Supplementary Estimates in the Third Session.

In addition to Supplementary Estimates, the Government has two further ways of authorizing expenditure. When the House is not in Session, Management Board may issue a Special Warrant authorizing a payment which is urgently needed, but not foreseen or provided for by the Legislature. (Section 4, Management Board of Cabinet Act, 1971.)

In the last year the House was not in session for a period of about five hours between prorogation of the Third Session and the opening of the Fourth. If this pattern continues, Special Warrants should not be used frequently.

Management Board Orders, on the other hand, may be issued at any time, whether or not the House is in session, to increase any existing appropriation where the public interest, or the urgent requirements of the public service, require further payments. (Section 5, Management Board of Cabinet Act, 1971.)

The only notification which the Legislature receives of Special Warrants or Management Board Orders is in the Provincial Auditor's Report, which is published almost a year after the fiscal year in which the Warrants or Orders were issued.

As part of the Supply procedure the Opposition parties are allotted three opportunities to move non-confidence in the Government (the convention being that two opportunities are at the disposal of the Official Opposition, and one at that of the Third Party). The Opposition can initiate such a motion by giving notice of it on the Notice Paper. There is no formal requirement on the Government to call such a motion at a particular time, but in practice it would be a great embarrassment to a Government to leave it on the Order Paper for any length of time.

Debate on want of confidence motions takes place during one sitting - between 3:00 and 6:00 p.m. The debate concludes automatically at 5:50 p.m., at which time the Speaker calls for a vote.

With the conclusion of the examination of the Main Estimates the opportunity to move non-confidence lapses.

No motions of non-confidence were presented during the Third Session and there was insignificant use of such motions in the Fourth and Fifth Sessions.

11. PRIVATE BILLS

Private Bills are those which do not have a general public import, but deal specifically with one town, company, university, etc. (Bills respecting municipalities and revivals of corporations are among the most common examples.)

All applications for Private Bills are examined by the Legislature's Standing Committee on Procedural Affairs to ensure that adequate notice has been given of the application. It is then introduced into the Legislature, usually by the Member in whose constituency the applicant resides. All Private Bills must be introduced within the first five weeks of the Session.

The bill is then referred to the Legislature's Standing Committee on Private Bills, a rather large amalgam of the Committees on Procedural Affairs and the Administration of Justice. It is here that most debate occurs. Second and third reading in the Legislature follow, and are usually quite routine, without much debate. Royal Assent completes the process and carries the bill into law.

Forty Private Bills were introduced in the Third Session, of which thirty-eight passed. A negligible amount of House time was spent in dealing with them.

12. PRIVATE MEMBERS' HOURS

A Member of the Legislature can introduce any number of Public Bills in any session. However, for a Private Member two major constraints are in operation: he may not introduce any bill whose passage would result in the expenditure of public funds (since, in the parliamentary system's view of responsible government, the Ministry must retain control of the purse strings) and his bill is only eligible for consideration during Private Members' Hour, from 5:00 to 6:00 p.m. on Mondays. (The nature of this

consideration is further affected by the convention which has developed in the Ontario Legislature precluding the taking of a vote during Private Members' Hour.)

Similarly, any Member of the Legislature may introduce a resolution (though no Member may have more than one notice of motion on the Notice Paper at a time), but a Private Member may only have his resolution dealt with during Private Members' Hour (again subject to the constraint that the motion will not be voted on). It should be noted that there is no financial restriction on resolutions of the kind placed on bills, since the passage of a resolution would not lead to an expenditure, but would only indicate that the Legislature thought an expenditure was advisable. The basic difference is that a resolution passed by the House does not become law, while a bill passed by the House does. Indeed, a Member who wishes the House to consider an action with financial implications can circumvent the prohibition on money bills by introducing a resolution calling for the House to endorse the action. (For example, a resolution introduced in the Third Session: "That in the opinion of this House, the Ministry of Health should amend the Health Insurance Act, 1972, to provide dental services for children six years of age and under.")

Among other kinds of resolutions which a Member might move would be those calling for the production of papers, referring a matter to a standing or select committee for study and report, calling for a public inquiry or Royal Commission concurring in a committee or other report or, in general, dealing with any matter on which the Government might move a motion but hasn't.

Only a small number of resolutions - ten - were introduced during the Third Session. Of these, five dealt with matters which would entail the expenditure of money: two called on the Government to take action not of a statutory nature (and hence not readily introduced as bills), to amend regulations and letters patent; one called for a public inquiry; one called for the House to deal with matters raised in a select

committee report; and the final one proposed a number of changes in the Question Period. There were seven resolutions introduced in the last session of this Legislature.

Bills were a more popular vehicle for Private Member initiative: twenty-five Members introduced 93 bills.* Two reasons might be put forward to explain the popularity of bills over resolutions. Firstly, a Member introducing a bill is entitled to give a short explanation of the purpose of the bill in the House, whereas a resolution is simply filed with the Clerk (though the text of the resolution will reappear on the Order Paper on each Monday on which Private Members' Hour is to be held until the resolution is dealt with or withdrawn). Secondly, a Member is not limited in the number of Public Bills he may introduce, but he may only have one resolution on the Order Paper at a time.

There were 24 Mondays during the sitting time of the Third Session. On five of these the House did not sit or it adjourned early; on a further eight Mondays the Private Members' Hour was cancelled.

Of the eleven Private Members' Hours which were held:

- five were used by PC Members
- three were used by Liberal Members
- two were used by NDP Members
- one was used jointly by a Liberal and a Conservative with similar bills

(The Standing Orders provide that Private Members' Hour be allocated

* 8 New Democrats introduced 53 bills (38 of which were introduced by one Member)

10 Liberals introduced 25 bills

7 Conservatives introduced 15 bills

Of the 93 bills introduced, 34 proposed new Acts, 59 proposed amendments to existing Acts.

among parties in proportion to their membership in the House. The allocation of the Hour within the party is the responsibility of the party caucus.)

On these occasions two resolutions and eleven bills were considered (on two occasions two bills were considered at the same time). Participation in the debates was consistently high with an average of two speakers from each party.

Ministers almost invariably vacate the House in Private Members' Hours, as though they are precluded from taking part - which they are not!

Just under 2% of sitting time in the Third Session was used in Private Members' Hours.

13. EMERGENCY DEBATES

Any Member who has given at least two hours notice to the Speaker may rise before the ordinary business of the day has been called and move that the House set aside its normal business to discuss a matter of urgent public importance. (Not more than one such motion may be made in one day.) The Member may take five minutes to justify his motion, and a representative from each of the other parties is given five minutes to state his party's position on the motion. The Speaker then rules if the motion is in order and of public importance. If he rules in favour of the motion, the House then votes on whether the debate should proceed.

If it is decided that it should, each Member who wishes to speak may do so for up to ten minutes. The debate concludes when all Members who wish to speak have done so, or at 6:00 p.m., whichever is first.

Two such motions were moved in the Third Session; both were successful. The first occurred in the spring and dealt with the flooding of the

Great Lakes; the second occurred on the day on which the Legislature reconvened in the fall and dealt with the rising cost of food. In the Third Session less than 1% of sitting time was devoted to such debates. In the Fifth Session one such motion was moved.

14. DIVISIONS

Any time when the House is asked to approve (or disapprove) some item, whether a reading of a bill, a passing of a motion, a challenge to the Speaker's ruling, etc., it votes on the matter. On most occasions this is done by a simple voice vote on which the Speaker gives his opinion that the "ayes" or the nays" have it. However, a recorded vote may be requested by any five Members who indicate their request by standing up after the Speaker has declared the result of the voice vote.

On such occasions the Speaker (or Chairman) orders that the Members be called in, and the division bell immediately begins ringing summoning Members to the Chamber. The bells continue until the three party whips appear at the door of the Chamber (and march to their places) indicating that their party Members have been called, and that as many as required are present. Every Member then present in the Chamber (with the exception of the Speaker or Chairman) must record his vote. Unless the vote is taking place in the Committee of the Whole House, the names of Members voting on each side of the question are recorded in the Votes and Proceedings and in Hansard. In Committee of the Whole only the results of the vote are recorded.

There were 102 such divisions during the Third Session. (Those taken in Committee of the Whole House were frequently "stacked" - that is, all votes concerning a particular bill, or in some cases group of related bills, were dealt with at the same time.) These divisions were of the following kinds:

on first reading	2
on second reading	20
on third reading	6
in Committee of the Whole (usually stacked)	63
in Committee of Supply	2
challenges to Speaker's Ruling	2
on budget motion and amendments	3
on Throne Speech reply and amendments	3
on Confirmation of Parkway Order	1
TOTAL:	<u>102</u>

Because there is no limit to the length of time the bells can ring, divisions can be a very time-consuming process. It is estimated that during the Third Session divisions took up just under 10% of the Legislature's sitting time.

15. PROCEDURAL DISCUSSION

(a) Point of Order

Any Member of the Legislature may draw to the Speaker's immediate attention any instance of what he considers a breach of order or a transgression of the written or unwritten conventions of the House. He may also, on a point of order, request the Speaker's guidance in some obscure area of procedure.

A Member rising on a point of order may interrupt the debate to make his point, although he is under an obligation to make it as concisely as possible. Once he has made it the Speaker will indicate whether or not the Member has a seemingly legitimate point of order and, if he has, the Speaker will rule on whether or not it is a valid one. In the latter case, if the point is somewhat contentious the Speaker may hear arguments

from other Members before ruling. In many cases, however, the need for a ruling is precluded by the fact that the Member clearly does not have a genuine point of order. Sometimes this is due to simple ignorance on the part of the Member; sometimes the Member has consciously used the device, knowing he does not have a point of order, to get the floor in order to score a debating point or to delay House proceedings.

(b) Point of Privilege

A Member may also rise on a point of privilege in order to claim that one of his traditional privileges as a Member of the Legislature (or one of the privileges of the Legislature itself) has been contravened. The usual parliamentary procedure for dealing with an instance of a breach of privilege is to move that the question be studied by a committee of the Legislature, in order to determine if a breach has occurred and to decide whether action by the House is called for. In determining whether a breach of privilege has occurred, reference is made to any relevant Statutes, to parliamentary tradition (particularly as outlined by Erskine May's Parliamentary Practice), and to the precedents and traditions of the Legislative Assembly of Ontario.

It is very rare for a Member of the Ontario Legislature who rises on a point of privilege to move that further action be taken by the House. If it is a bona fide point of privilege (and frequently it is not) it is usually one of misrepresentation in the press, and the Member is content to have set the record straight.

In any other alleged instances of breach of privilege the Member usually appeals to the Speaker for a ruling, instead of asking the House to consider the matter. At best the Speaker can only rule whether or not in his opinion a breach has occurred; he cannot require any further action to be taken. In so ruling he must generally rely on the privileges established within the framework of the general parliamentary tradition as the Ontario Legislature has not developed a unique body of privilege of its own. The Legislature itself, through a motion, may,

and probably should, take action once the Speaker has ruled the point of privilege is apparently genuine.

The phrases "point of order" or "point of privilege" do not necessarily mean that what follows remotely resembles either. The absence of the phrase does not mean what follows is not a point of order or privilege.

In addition to the raising of points of order and privilege, what might be termed "procedural discussion" also includes announcements (sometimes with discussion or argument) of what the upcoming business of the House is or might be. The abandon with which procedural discussion, points of order, etc. come to the floor make them difficult to distinguish with any accuracy.

In general terms such discussion occupied about 2% of the Legislature's time during the Third Session.

COMMENTARY ON
HOW THE LEGISLATURE SPENDS ITS TIME

1. MINISTERIAL STATEMENTS

There is clearly a need for Ministers to be able to make statements to the House as they deem necessary; they ought not to have to await a debate touching the subject on which they wish to speak, or to consume a substantial portion of the Question Period delivering an explanation of policy or administration. It is in the best interests of all Members of the House that they be as well and as quickly informed as possible on Ministry affairs.

However, while the main purpose of such statements is to give information (an object which merits greater emphasis in the present Legislature), it is clear that much such information may have a somewhat controversial or partisan bias, or be somewhat vague or incomplete. The Opposition's urge to reply to, or to question, many of these statements is understandable. In the present circumstances, in which a formal right of reply is precluded, there is a tendency to use the first part of the Question Period to respond, sometimes in an oblique way, to statements.

As presently constituted, ministerial statements afford Ministers an unlimited amount of time to speak, in the knowledge that the Opposition cannot reply, and at a time when news coverage of the Legislature is at its highest (the press having assembled for the daily highlight - the Question Period). It would seem reasonable to require (as requested by the Legislature's Select Committee on Rules and Procedures in 1969) that each Opposition party be given the right to make a brief reply to the statement.

Further, to make such replies as meaningful as possible, we would ask the Ministry to consider providing the Opposition leaders with copies of the statements before the Legislature meets whenever this is possible. We appreciate that there must be occasions when urgency, and the need for confidentiality until the actual time of the statement, will preclude this courtesy. On many occasions, however, the opportunity of providing a copy in advance will raise no difficulties and will much enhance interest in the statement and the calibre of responses.

The present scheduling of Ministerial statements should be continued. Occurring when they do, they are ensured of the press attendance assembled for Question Period. This is an incentive to make statements of public importance inside the House, a practice which should be encouraged.

2. QUESTION PERIOD

Until the most recent changes to the Standing Orders, in 1969-70, Question Period was conducted on a different basis than at present. All questions had to be submitted to the Speaker in advance of the meeting of the House; he would then decide which, if any, would be called. The spontaneity of an oral Question Period, in which no notice is given of what questions will be asked, is consequently a relatively new experience for the Ontario Legislature.

As in all of its proceedings, the House in theory governs its Question Period by its own Standing Orders and precedents and, in cases unprovided for by the former, with reference to general parliamentary tradition (particularly as expressed in Erskine May's Parliamentary Practice). However, by even the most liberal interpretation of these authorities, at least half of the questions asked in an average Question Period would be ruled out of order. Among the most frequently breached prohibitions are questions which are argumentative, opinionated, rhetorical, of excessive length, or containing unnecessary epithets or facts beyond those necessary

to explain the question. Sometimes questions are asked which, because of the detailed answer required, or because of their lack of public urgency, would more properly belong on the Notice Paper. The answers given to oral questions are frequently of excessive length, not confined to the points contained in the question, and sometimes argumentative.

It is probably true that in most of today's legislatures and parliaments Question Period is much more than a time in which simple information is exchanged. It is in some sense the focus of the parliamentary day - the only time when all or most of the Ministry and Members are present, one of the rare times when the press gallery is filled, and when any Minister is open to question by any Member on his department's affairs.

In such circumstances it is understandable that Question Period has tended to become something of a series of mini-debates mirroring some of the important issues of the day. However, it should be a series of very tight debates with all participants aware of, and governed by, strict rules of brevity, relevance and order. Such is clearly not the case in the Ontario Legislature. More often than not it is a tumultuous, argumentative, noisy free-for-all, marked by cat-calling, desk-thumping and personal shouts. Members often address each other directly, rather than through the Speaker. Too often the emphasis seems to be on petty point-scoring. There seems to be little evidence of any overall strategy or thrust by Opposition parties - questions on most days seem ad hoc and scattered, rather than reflecting a concerted attack or probe of a policy or area of administration.

In a daily situation so deeply, often joyfully, partisan as that of Question Period, there is usually an irresistible temptation to Members to give answers or ask questions that are out of order, to make speeches, or to engage in heckling or extended debate if they can get away with it. It is surely the Speaker's role to ensure that the rules of order are adhered to. Of course, that is an easy exhortation. The Speaker's difficulties with Question Period are manifest.

Questions should not be allowed to have a long preamble, but should begin with a simple interrogative and proceed directly to the question.

A more vigorous effort must also be made to limit the number of supplementaries. Recently, leaders of the Opposition parties have been making a greater effort to limit their own questioning, but so many supplementaries are being allowed that the focus of Question Period continues to be on matters raised by the party leaders.

On the other hand, the unruliness of some Members on occasion goes well beyond any limits that might be excused in terms of partisanship. They, not the Speaker, must take the blame for such behaviour.

The dominance of Question Period within the Ontario Legislature by the leaders of the Opposition parties is not the usual parliamentary practice. Its development has caused some dissatisfaction - understandably so when one examines the lack of opportunity afforded Backbenchers wishing to initiate questions. Although it would be quite reasonable to recognize the leadership of the Opposition parties in terms of allowing them the first two main questions of the Question Period, there is no reason to allow them an interminable number of questions. Backbenchers should be given more opportunity to take part in the Question Period. Limiting the questioning of party leaders need not preclude an Opposition party pursuing a related series of questions during the Question Period. It will only mean that questions will be pursued by a series of party Members, and not just by the leader. Indeed, limiting questioning by party leaders may bring Opposition parties to a more co-ordinated and strategic use of the Question Period.

It would seem clear that Members on all sides of the House have much to gain by more orderly Question Periods. One Speaker of the Ontario Legislature described it as "the most unruly House in Canada". Somewhere in the scale between torpor or boredom, and unruliness, there is a condition

or mood that is lively and brisk. All Members, in concert and respecting the Speaker, should try to attain it more often.

3. ADJOURNMENT DEBATE

The Standing Orders provide that a Minister may decline to answer any question put to him during Oral Question Period. It is only reasonable that a Minister be allowed this option. On the other hand, a Member who has been refused an answer or has received, in his opinion, an incomplete answer, should have adequate opportunity to explain his dissatisfaction, and to hear a more detailed explanation of the Minister's refusal, if the latter chooses to provide it.

In this context, the potential afforded by adjournment debates is only beginning to be recognized by Members and the procedure is still only sparingly used. There is no doubt that its use is limited by the fact that such debate can only occur once a week, and at a late hour. Although a Member may raise a matter from any Question Period on the Tuesday adjournment, the timeliness of introducing a subject which arose in the previous Thursday's Question Period is unlikely to have appeal. In fact, matters raised on adjournment come almost exclusively from the Tuesday Question Period, with some carry-over from the Monday one. In order that a Member may have an equal opportunity to raise matters from all Question Periods, and not just those early in the week, adjournment debates should be held every sitting day but Friday. Further, they should be held at an earlier hour - just before the dinner recess on those days when the House sits until 6:00 p.m. Each matter should be allotted ten minutes - five minutes for the Member raising the question, and five minutes for a Ministerial response - with a maximum of three issues per day and a starting time of, at the earliest, 5:30 p.m. This arrangement would provide more incentive for Members to take advantage of the opportunity provided by adjournment debates, and encourage attendance by more Members of the Legislature and members of the Press Gallery.

Members making use of adjournment debates have often failed to notify the relevant Minister in advance of their intentions. As a matter of simple courtesy, and also to ensure a more prepared response, Members should give Ministers notice of their intention to raise a matter on adjournment.

It is to be hoped that with these changes Members would make wider use of the opportunities presented by the debates to challenge the Ministry. Complaints of unsatisfactory answers during Question Period have been numerous and loud. Few Members, however, have shown initiative in pursuing their complaints, even though this procedural opportunity is open to them.

4. PETITIONS

The chief characteristic of the current petitions procedure in the Ontario Legislature is that it is rarely used. What would appear to be its major potential - as a mechanism for presentation of a grievance - has been left unexplored by Members. There is a misconception in some minds that parliamentary petitions are opinion polls on a question of public contention, rather than a plea that the Legislature consider a specific course of deliberation or action.

In order to provide this process with greater significance, we would suggest referring petitions to a legislative committee for study, in a manner set out in the section on Committees.

5. PRESENTING REPORTS AND TABLING DOCUMENTS

A number of aspects of this item of legislative business require comment:

(a) Presentation of Committee Reports

As noted in the initial description of this item, any committee chairman who presents a report may move its adoption; however, the practice has grown up that only routine reports are so moved.

The chairman of the committee is not the only member of it who knows the substance of the report. It would seem there is an excellent case that unless there is some prior arranged agreement reached by all the parties, there should be a motion to adopt a committee's report in the Assembly. In most cases this will be a mere routine with an automatic assent from the Members. If there is dissent, or the wish by any Member to debate the report, then it seems sensible to have one, particularly because in the parliamentary system there is no provision in committee reports for minority dissent.

The main reason we could discern for the practice of not moving the adoption of reports is the unwillingness of committee chairmen to do anything which might trouble the Government, such as introducing a debate on a report to which the Government is opposed, or is unprepared to indicate its course of action.

This seems to be carrying the constraints of party discipline rather far. As the chairman of a committee, a Member of the Legislature is acting in the role of a Speaker. Failure to move adoption of committee reports has some parallel with the practice of the Legislature in "talking out" Private Members' Public Bills. Such hesitation to dispose of matters through what should be routine practices of the Assembly suggests there is too much caution in the name of protecting the Government. One consequence is that some opportunities for individual initiative, in particular in focussing attention on good work or

important issues that have arisen in committee, are not drawn to the attention of the Legislature as a whole and to the public.

A case in point was a report from the Regulations Committee which read, "Your Committee recommends to the Legislature that in view of the Committee's limited Statutory Powers, regulations be referred to the Committee from time to time for review and examination of their merits."

This report was presented to the Legislature by the Committee's Chairman, who did not move its adoption. If he had moved it, it is hard to see how the Government would have suffered. There is almost universal dissatisfaction with the functions of the Regulations Committee as currently constituted; the motion to adopt the Committee's report would have meant an opportunity to discuss the sources of this dissatisfaction and to suggest possible solutions. Nor would it have been necessary to upset the day's legislative timetable with the motion. Debate could easily have been adjourned and scheduled for a more convenient time.

(b) Reports required by Statute

Twenty-eight of the seventy-seven annual reports which the law required be placed before the House were not presented during the Third Session.

Clearly the statutory requirement to table a report in the Legislature is not being taken seriously in Ontario - either by the Ministers required to table them or by Members whose rights to information are being abrogated. Any Member has the opportunity to move that the failure to table a report constitutes a breach of the privileges of the House which ought to be examined by a standing committee of the Legislature. (Such a

motion, being one of privilege, will receive a fairly prompt ruling from the Chair, and need not await consideration during Private Members' Hour.)

In order that both Ministers and Members may have an accurate accounting of which reports are required to be tabled, the Clerk's Office should circulate an up-to-date listing of all reports required by Statute. Such a list would assist the Ministry in meeting its obligations and the House in safeguarding its rights and in monitoring Statutes to see that these accurately reflect the reporting requirements which the House feels are necessary.

(c) Presentation of Reports and Papers Not Required by Statute

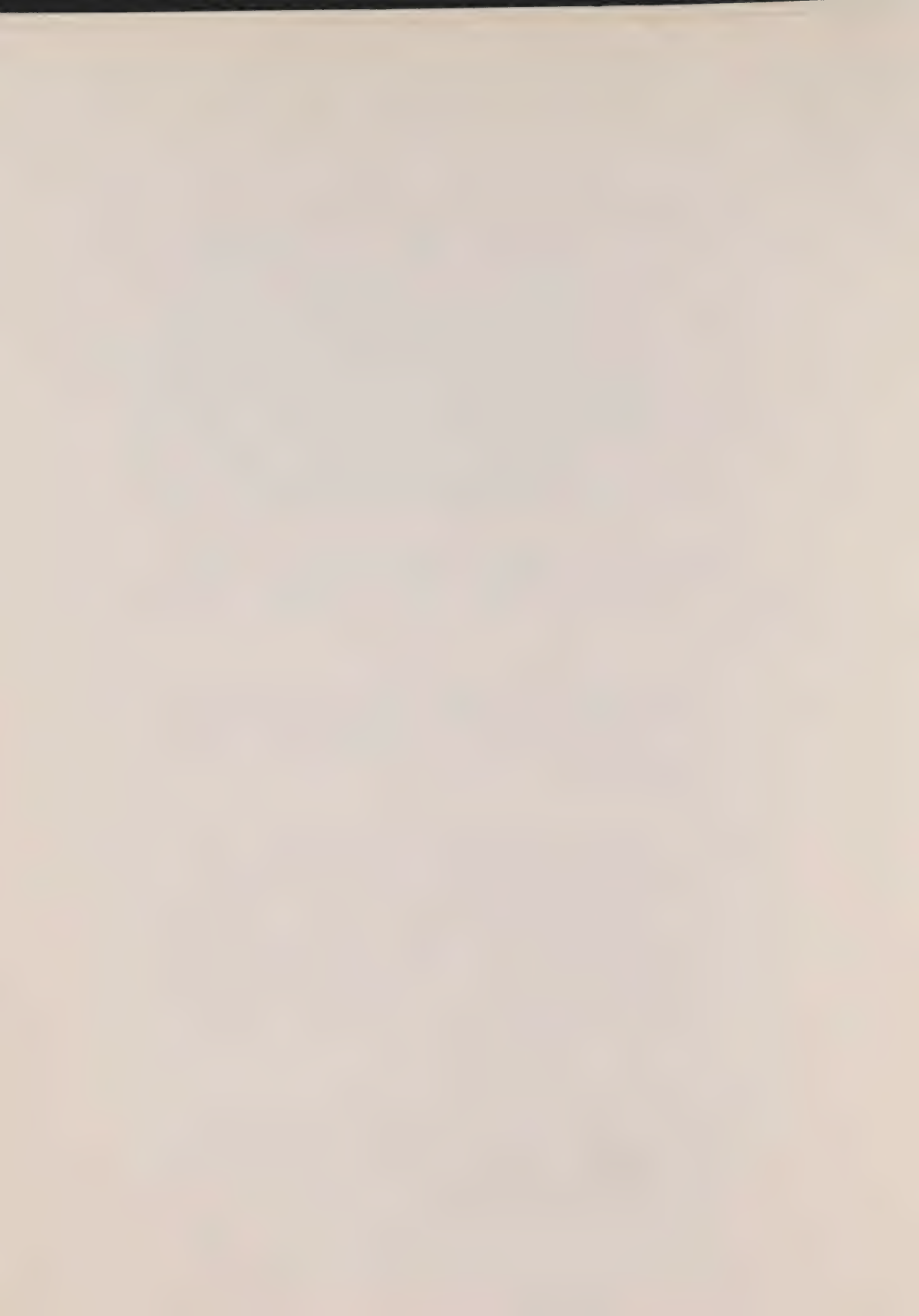
At the present time Ministers may table documents which they feel will be of interest to Members, or for which a Member has asked. However, they are not required to produce any information which is not called for by Statute. A Member who asks a Minister for a specific report or document and who is refused, may raise the matter on an adjournment debate, but at such time only he and the Minister may speak - each for five minutes. He may also put a notice of motion on the Notice Paper calling for production of the document. When called, the motion permits a more wide-ranging debate - in terms of time and participation - on whether or not the information should be produced. However, under present circumstances such a motion can only be called during Private Members' Hours. Since there were only 12 such hours during the Third Session, it is clear that as presently constituted, motions for the production of papers will probably not call forth many reports or documents.

There should be an opportunity for a Private Member to call for production of information which is separate and additional to his opportunities to discuss policy in terms of bills

and resolutions. A separate section of the Notice Paper should be set aside for motions for papers, so a Member who wishes to place a policy resolution on the Paper is not precluded from doing so by the fact that he has already tabled a motion for papers. It is to be expected that in many instances Ministers will respond to such motions by tabling the document in question. However, a separate time should be set aside to debate those motions to which Ministers refuse to respond. If there are no motions for production of papers on the Notice Paper, the Legislature would revert to regular Private Members' business.

In order that the process of tabling documents be made both simpler and more effective, the following changes in present procedure are suggested:

- (1) To save House time, tabling should be done by simply filing a signed copy of the document in question with the Clerk, and recording the tabling in the Votes and Proceedings;
- (2) If a document is worth tabling in the House, then it should be available to all Members. At present it is often the case that there are only two or three copies of such documents. There should be at least one for each Member. Delivery to the Member's office is much preferable to distribution in the House - a not uncommon and distracting practice.
- (3) In order that the printing of tabled documents be cheaper and the products of more use to Members, there should be some standards in size, format, and colour-coding for all such reports.



(d) Answers to Written Questions

We noted in the discussion on Question Period that often questions are put orally which should properly go on the Notice Paper because of their lack of urgency, or because the amount of detail required for a fair answer could not be expected from the Minister. On the other hand, few written questions are placed on the Notice Paper by MPPs. In the Third Session the total over the entire session was only forty. The totals were not appreciably higher in previous or later sessions of this particular Legislature. (In passing, we note that during any recent session of the House of Commons at least two thousand written questions were placed.) We heard from some Opposition MPPs that few questions are placed on the Notice Paper because it takes so long to get answers, and sometimes answers are never received. One reason that may explain the failure to answer questions promptly, and perhaps is the explanation why Opposition MPPs see no particular advantage in them, is that the questions, seriatim, are not reprinted regularly on the Notice Paper, with the date of their filing.

It seems clear that written questions could well take some of the load off the Oral Question Period. If there is fault on the Governmental side, it is in slowness in answering. On the Opposition side, however, there has been a remarkable failure to follow up in the Legislature itself as to why it takes so long to answer written questions.

We suggest that the list of written questions be printed at least twice a week on the Notice Paper, accompanied by the date of their first appearance. If the Minister concerned concludes that he does not wish to answer the question, or that answering it will be inordinately expensive or that it

will take many weeks to develop a suitable answer, then we believe he or the House Leader should indicate this in the Legislature on Orders of the Day within a fortnight of the first appearance of the question.

Of course, the Member who puts a question in this form which the Minister refuses to answer, has the resort of challenging the Minister at an adjournment debate. If a Member's question remains unanswered at the end of a session, he should be free to place it again next session, in which case the date of the first appearance should be the one printed.

Written questions, like oral questions, require proper phrasing to meet the obligations of relevance, lack of argument, etc. It is a responsibility of the Clerk and his aides to appraise questions for their correctness in form, in consultation where necessary with the Speaker and the Member.

Somewhere between the costly and demanding scale of the myriad of questions placed in Ottawa, and the scant use made of this procedure in Ontario, there would seem to be a useful practice which could supply Members with much information they seek, without taking the time of the Assembly.

6. GOVERNMENT BILLS

The overwhelming criticism of the way in which the Legislature deals with Government bills is the familiar one of the way the Government handles its legislative business generally - the scheduling or, rather, the lack of it. This is reflected in the lack of advance notice given of when bills will be considered, the speed with which major legislation passes through the House, frequently with little or no time between stages of

passage, and in the rush of legislation which is introduced and passed in the closing days of the session or before a holiday recess. This first complaint was discussed in the Commission's Second Report in the context of its recommendations dealing with the recognition and responsibilities of House leaders.

It is obviously not to be expected that an exact and accurate timetable of the Legislature's business could be drawn up a week in advance. The Government will always retain the responsibility and initiative (and the tactical advantage) for the order in which Government business is called. It may decide that certain situations necessitate rather rapid changes in plans, thus requiring shifts in the predicted order of business.

On the other hand, the Government cannot on its own determine with accuracy how long discussion on any item will last, since the Opposition has a rather large say in this. However, within those constraints a great deal of negotiated consensus, with a consequential predictability in the legislative timetable, is possible and, in an age of complex legislation requiring considerable preparation, imperative. We would suggest that a projection of the next week's business, based on discussions among the House leaders, be filed by 10:00 p.m. on Thursday and printed in Friday's Order Paper.

Related to this is the timing of the various stages of a bill's passage. In a large number of cases with regard to bills passed during the Third Session, second reading, committee reporting, and third reading all occurred on the same day. Since the discussion which takes place on each of these stages is of a very different kind, each requires a different (if related) kind of preparation by Members.

The standard argument in support of such speedy passage is usually that much of the legislation is "housekeeping" and does not require lengthy consideration. Certainly the majority of bills introduced are

amendments to existing legislation, rather than new Acts. However, many of the amendments have substantial implications which are often not obvious on first perusal of the bill, and of which the Minister may not himself be aware. In the interests of good legislation, Members need sufficient time to study a bill, to obtain the necessary research, and to contact constituents who might be affected by it. To ensure a more orderly and considered passage of legislation, it would be desirable to require that whenever fifteen or more Members object to proceeding otherwise -

- no bill may pass more than one stage per day
- there must be at least two days between printing/
distribution and the commencement of consideration
on second reading
- the House may not sit beyond 10:30 p.m.

One courtesy which a Minister who is sponsoring an amendment or amendments to a Statute or Statutes in force should give to Members at first reading, is an up-to-date consolidation of the acts to be amended; then Members can more readily appraise the effects of the bill.

As mentioned earlier, there seems to be some confusion in the Ontario Legislature as to whether allowing a bill first reading constitutes some sort of preliminary approval of the bill, or whether it is merely a vehicle for bringing it before the House for consideration. In fact, parliamentary tradition indicates the latter; so does common sense, since it is rather difficult to object to a bill which one has not seen.

Essentially, first reading is a formality; it provides the Minister with an opportunity to give a brief explanation of the purpose of the bill and enables it to be received by the Legislature (and printed and distributed) for consideration.

Clearly, the majority of time devoted to consideration of bills occurs

at second reading. This time is largely used by Opposition Members; the burden of the defence of legislation falls heavily (often exclusively) on the relevant Minister or parliamentary assistant. Government Members generally do not feel a need to speak in debates on the principles of Government legislation.

In their explanations and defences of bills, both at second reading and during committee, some Ministers and parliamentary assistants have relied rather heavily on the knowledge of their civil servants. The latter are allowed to sit on the floor of the House, behind the Speaker's chair. Often they are busy sending written bulletins, or conferring with Ministers over the railing that separates them from the main floor of the House. This practice often adds noise and some distraction to the debate and can convey an impression of civil service partisanship.

Although it is entirely reasonable that Ministers may sometimes be confronted with questions on which they may wish to consult their staffs, they should not depend on them as heavily as they do. If the ministerial responsibility on which our legislative system is based means anything, it must surely impose on Ministers an obligation to be well versed in their legislation before they bring it before the House. As an encouragement toward this end and to minimize distractions on the floor, it would be desirable to prohibit anyone but Members, officers, and pages of the House from being on the floor of the Legislature when it is sitting.

We would suggest there be a small curtained alcove to accommodate the Legislative Counsel, and possibly a Ministry Law Officer (who can then advise, but not distract). Any other ministerial aides who wish to consult with Ministers could do so in the lobbies (which we recommend be expanded and made more convenient) adjoining the Chamber.

If a Minister feels the consideration of a particular bill would be greatly improved by the presence of Ministry officials, he can always

press for standing committee consideration to follow second reading.

As during second reading, the committee stages of bills rarely bring any participation on the part of backbench Government Members. These stages are also often the victim of poor scheduling arrangements, simply because there is not enough opportunity to give notice of proposed amendments. If there is to be at least a day between second reading and committee stage, it would be in the interests of more reasoned amendments to require that they be filed with the Clerk at least two hours before the sitting in which they are to be considered.

The question of whether a bill should be referred to a standing committee or the Committee of the Whole, should probably more properly belong to the House than to the Minister; an appropriate mechanism might be that when fifteen Members signify, by standing in their places, their desire that a bill be sent to standing committee, it be so sent. In such a case it would seem appropriate to require some minimum time, say two days, between referral and the commencement of committee hearings in order that interested members of the public might be informed. (In the past, it has not been unknown for a bill to be heard in a standing committee the day after its referral, thus allowing insufficient time to inform the public.) As in other proposals for scheduling, this requirement could be dispensed with in an emergency with the consent of the House. Participation by the public at this stage should be at the discretion of the committee, and not of the Minister as at present. Finally, when a bill has been studied in a standing committee, it should not then be able to be re-examined in Committee of the Whole. The House should be confined to a discussion of the committee's report, and not indulge in a duplication of effort.

It has been customary in some modern parliaments and legislatures to stage a repetition of the debate on second reading during the committee stage of a bill, under the guise of discussing the bill's first clause. This is obviously a time-wasting procedure; the Ontario Legislature is to be congratulated for seeing that it is not allowed, and for ensuring that

only the details of bills are examined in committee.

Time Allocation or Closure by Agreement

The Commission would be remiss at this stage of the report if it did not make some comments on a subject and a parliamentary mechanism which has caused much contention in Canada, particularly in the Federal Parliament. In Britain a form of closure, or "the guillotine", has been used effectively for many years. It is seen by Members of all parties as a necessity if the legislation the Government requires is to be achieved. In the House at Ottawa, an amended form of closure was put into the rules of the House in 1969, but it has not had any significant use. We think it can be fairly said, aside from any inadequacies in the procedural mechanism as written, that the reason why it has not been used is the general distaste for anything which suggests that the Government is steamrolling the Opposition in the House or is afraid of a protracted debate.

It is obvious that a Government in the Legislature of Ontario has the opportunity to end debate on legislation at several stages of a bill merely by moving that the motion be now put, and having it approved. This has not been the practice, and for the same reasons which have kept the Governments in Ottawa from invoking closure.

Hand in hand in Britain with the mechanism of closure or the guillotine on debate, is a thorough discussion and pre-scheduling of the legislative intentions of the Government. That is, agreement is sought from House leaders as to the amount of time each proposed measure should be given, in total and often in the respective stages. In those cases where there is disagreement on the time planned among the participants, the Government representative, after discussion, gives notice of the Government's intentions with regard to time. In other words, notice of closure follows thorough and serious discussion with the Opposition for scheduling the Government's business.

The reason we commend this procedure and the imperative of preliminary discussion and arrangement of business may seem paradoxical. The Ontario Legislature has not been the "choke-hole" for Governmental bills that the Canadian House of Commons tends to be. That is, Ontario processes a larger legislative load. The question comes immediately: why the need for a formal closure mechanism if there is not a major problem for the Government in getting its legislation? The answer is related to the often frenetic pileup of bills at the recesses or at the ends of sessions, the evidence of inadequate or uneven scheduling of business throughout a session, and the chronic complaints of Opposition parties over the unbusinesslike nature of the flow and scheduling of bills.

It may be well for skeptics to say: "the Government proposes; the Opposition disposes". The goals surely should be: (a) to give certain opportunity for partisan criticism and defence of measures; (b) to ensure that after such opportunity is provided, the Government can have its bills; and (c) to be sure the Opposition knows what is coming and has a reasonable amount of time to prepare to take part.

We commend the provision in the Standing Orders for a mechanism to schedule the length of debate. It should only be invoked, of course, after discussion about the scheduling and the times among the House leaders, and after notice is given to the Legislature, preferably on the Notice Paper, that on such and such a measure and at such and such a stage, the Government intends to close debate after so much time has been given to it. We underline that such a procedural arrangement fits in with other recommendations we have made regarding hours of sitting and extension of sittings.

In this and an earlier report we have stressed the need to arrange the schedule of business more evenly throughout the legislative year. We have suggested that the Ministry and its senior advisers, who are responsible for so much of the content and drafting of measures, should give a higher priority to fitting their work into the time and procedures

of the Legislature. This mechanism would make scheduling easier for everyone. It certainly deserves a trial.

There will be occasions when no agreement on the length of time for debate can be found among the House leaders. In such cases the Government House Leader has the option that he has now of moving the motion be put. In time, after some experience with the mechanism, we believe both Government and Opposition parties in the Legislature will appreciate the efficacy of the mechanism, and the pivotal part it can play in regulating the flow of business and better consideration of motions and legislation.

7. GOVERNMENT MOTIONS AND RESOLUTIONS

A quick perusal of the kinds of motions moved as "routine proceedings" in the Third Session suggests that at least some should only have been moved after notice had been given (that is, that there was sufficient substance to the motion that Members should have had a chance to prepare themselves for debate). The most glaring example in this category was the motion for interim supply. A motion which authorizes the unlimited expenditure of public funds must surely, by any criteria, be a substantive one. However, the motion is moved annually under routine proceedings with little or no debate.

Interim supply should only be moved with notice, as a substantive motion (affording opportunity for debate), and with limitations on the amount of interim expenditure being authorized. The notice should have a list indicating the chief objects of the expenditure. It would seem responsible to refuse to vote interim supply until it is introduced with some advance notice, with an opportunity to debate it, and probably with limitations on the time period for which interim expenditure is being authorized.

Other motions now being dealt with as routine proceedings, and which should only be put after notice has been given, are those dealing with

the appointment of committees (Standing Order 32(a) clearly specifies a requirement for notice of such motions), and the referral of Estimates to committees. Again, the fact that the Opposition has not been more tenacious in its defence of this right to notice is neither explainable nor excusable.

8. DEBATE ON THE SPEECH FROM THE THRONE

Five per cent is a great deal of legislative time to spend on an item which is unrelated to any of the specific business with which the Legislature must deal. The problem is compounded by the fact that the debate occurs exclusively in the opening days of the session, and that for these two or two and a half weeks virtually no other business comes before the House - a practice which does nothing to ease the end of session rush of legislation.

There should be an overall limit on the number of days to be devoted to the debate, say seven sitting days, so the opening weeks of a session are not devoted almost exclusively to the Throne Speech Debate, and so there is higher priority on Ministers getting legislation ready for introduction earlier in the session.

Current efforts by the whips to give the Speaker and Members advance notice of the order of speakers seem to be less than successful. Frequently the Speaker calls on one Member, only to find that another is going to speak. As often, a Member is informed five minutes beforehand that he will be called next. There is no reason for the whips not being able to prepare a Speaker's list in advance, in order that the Speaker may know whom he is to call on, and the press may have have notice of who is to be speaking (it being understood that it is within the Speaker's power to exercise discretion in the degree to which he follows the lists).

9. BUDGET DEBATE

Although the claim on House time made by the Budget Debate is possibly not so excessive as that by the Throne Debate (the former occurs throughout the session and thus does not preclude other legislative business being dealt with), it is still unduly large. The same arguments in favour of limiting the time available apply. Five sitting days should normally be allotted to this debate - surely enough time to permit all parties to speak - and it should be completed within a fortnight of introduction.

The Budget Debate in the Legislature should be the focus for discussion on the fiscal policy of the Government. Our review of the debates in recent years indicates this is only true in a limited way.

10. SUPPLY

One of the major complaints in connection with the consideration of Estimates is again one of scheduling. In the case of supply, the problem seems to have many dimensions.

First, there is the strong supposition that the order in which Estimates are called before the House is at least partly a reflection of the order in which they are ready, and that some Ministers are not prepared to have their Estimates examined until well into the session. It may be that the Government House Leader does not have the necessary power within the Cabinet to require his colleagues to be ready on time or, if he has the power, does not feel he needs to use it.

Second, there seems to be no consensus among the parties as to which Estimates are to be referred to which standing committees, and which Estimates are to be dealt with in the House. Again, both Government and Opposition are to be faulted for this, the latter for failing to insist

more strongly on its right to consultation.

Third, there is a lack of planning and advance notice as to when Estimates will be considered, which can leave Members unprepared to deal properly with them, or can result in Estimates in related fields being dealt with concurrently in the House and in either of the two standing committees. This presents a difficult situation to an Opposition party, for its critics in that policy field may be required to be in two places at once.

Finally, there is a lack of planning by all sides of the House as to how much time is spent on each set of Estimates - with results such as occurred in the Third Session when almost no time was left for consideration of the Estimates of the Ministry of Health.

Part of the blame for this situation may lie in the fact that there is not enough time for consideration of supply. The number and size of ministries have increased over recent years, with no increase in the time allotted to supply. Part of the difficulty may lie with the relative complexity of the formula under which supply time is allocated, and the fact that the limits imposed on Estimates in committee are different from those in the House (although the time remaining is now printed on the Notice Paper).

However, the major blame must be borne by Members for not planning better use of their time. The best example of this is that Wednesdays, set aside for committee meetings, were virtually unused for consideration of Estimates. A quick glance at the number of bills sent to committee indicates that the major work of standing committees in the Ontario Legislature is in the area of supply. It is therefore remarkable that Wednesdays are not used to consider Estimates.

In any case, whether or not adequate use was made of Wednesdays, it borders on being incomprehensible that it was not until within a week of

the cut-off date that Members realized they would not have time for the Ministry of Health. An Opposition which took responsibility for scrutiny with reasonable seriousness would monitor the use of supply time, no matter how complex the formula for allocating such time. This points again to a lack of party strategy and planning. Clearly there can never be time to examine thoroughly every ministry every year. But with a system of planned and co-ordinated rotation the Opposition parties can concentrate on different ministries from year to year.

In order that formula for the allocation of supply time be clearly understood and not dependent on whether Estimates are in standing committees or Committee of the Whole, it should be fixed by dates, and not by hours spent. All Estimates should be referred to the relevant committee by March 1st, and reported in enough time for concurrence by the last sitting day in June (i.e. the last Friday in June). In most cases this will mean reporting back by the last Thursday in June, except when Estimates are reported by standing committee and a debate is to be held on concurrence in the House. In the latter case it would, of course, be necessary to report sufficiently in advance that such a debate could be scheduled. Obviously this proposal would have the effect of concentrating supply consideration in the spring (it is currently spread throughout the year), with the corollary that the fall sitting would emphasize legislation.

At the present time the Opposition has no say in the referral of Estimates, or in the order in which they are called. This makes it very difficult for either Opposition party to plan a strategy of concentrating upon a small number of ministries in any year, since those ministries may be at the bottom of the list for consideration and consequently would only be reached as time was running out. The problem is compounded because, if one Opposition party chooses to concentrate on one of the earlier ministries, the other party is compelled to be equally vigorous in its examination, even if it had not planned to focus on the ministry, because not to do so would make it look like a weak opposition by comparison.

As a solution to this, and in recognition of the Legislature's rights in the consideration of Government supply, it is proposed to allow each party an equal voice in the ordering of Estimates. The Official Opposition will choose which ministry it wishes to deal with first, and in which committee; consideration of that ministry will begin on March 1st. The Third Party will choose next, followed in turn by the governing party (each party's decision being presented by the House Leader to his counterparts). This rotation will continue until all Estimates have been dealt with, or until supply time runs out, whichever comes first. There may, of course, be some concurrent consideration of Estimates when one party chooses to have a ministry examined in a standing committee, and another chooses the Committee of the Whole.

Between the date of commencement of the fiscal year and the passage of a ministry's Estimates, any expenditure it is required to make is authorized by the Motion for Interim Supply discussed earlier. Since under the proposed timetable all Estimates must be completed by the end of the first quarter of the fiscal year (the end of June), this motion should reasonably only authorize one quarter of the ministry's Estimates as interim expenditure. Should a ministry find it necessary to exceed its interim authorization, the Minister should be required to seek a second authorization from the Legislature.

Once the Main Estimates are passed, additional sums may be authorized by Supplementary Estimates. The only requirement we would put on these is that they be completed by November 30th.

In the fiscal year ending March 31, 1971, Management Board Orders authorizing expenditures over \$109 million were issued (of which over \$96 million was spent), as were Special Warrants authorizing just over \$1.2 million (of which just under \$1.2 million was spent). The first notification the Legislature received of these Orders was in the Provincial Auditor's Report, which was tabled in the House on March 7, 1974.

If the present trend towards sessions which last throughout the year continues, the incidence of Special Warrants should be minimal, since they can only be issued when the House is not in session. With respect to Management Board Orders, the argument has been made to us that these increase the Government's financial responsibility, because they allow the ministry a certain necessary flexibility. Their use means that departments need not pad their Estimates to cover unforeseen contingencies. Ministers can be encouraged to cut their budgets as finely as possible in the knowledge that should an unexpected expenditure become necessary a Management Board Order can cover it. This seems to us a reasonable position to take. However, we would require that the Legislature be notified of such Orders within a week of their issuance or, if the House is not sitting, on the day it reconvenes. We note that at least twice the Public Accounts Committee has recommended that Management Board Orders and Special Warrants be brought before the Legislature more frequently (the last recommendation was on July 10, 1975).

When one considers the absence of non-confidence motions in the Third Session, one must conclude that Private Members of the Ontario Legislature (in this case the Opposition parties), although they complain of their lack of legislative opportunity, have not used the initiatives available to them. The New Democratic Party points out that under the present system it is reluctant to use its one such motion, because then it has no further opportunity to move non-confidence in the event of some unforeseen contingency. Though this may suggest a need for more opportunities to move non-confidence, it does not really explain why both Opposition parties did not use the opportunities they had.

One attempt was made by the New Democratic Party to move non-confidence in connection with the legislation dealing with teacher resignations. This was ruled out of order on the grounds that such motions can only be introduced during the time supply is under consideration, and that time had expired. The connection between supply and the moving of non-confidence dates from the time when the motion to go to committee of supply was

the occasion for a debate on Opposition grievances. This procedure has long been abandoned and there seems no reason to continue limiting non-confidence motions to the supply period. A limited (but larger than at present) number of non-confidence motions should be allowed at any time during the year.

One final and important point to be made about supply is the lack of a critical focus on Government spending programs. At a time when such programs are dramatically increasing, such a critical assessment is essential, and we have not been greatly taken with the stock discussion of supply. It often takes the form of moral or philosophical exchanges with the Minister, and a lot of requests for more services in the ridings of the Members who take part in the debate. Members from all parties, but particularly Opposition Members, may see the purport of this paragraph more clearly when they consider that the Government has found it necessary in the Fifth Session to create a new agency - the Special Program Review - to examine Government spending.

11. PRIVATE BILLS

We have no major criticisms about the process of consideration for such bills, but we would modify it somewhat in the manner described in the Committees section. There is a practice developing of introducing private bills as public bills, because the sessional deadline for private bills has been passed and there is urgency in those bills which have missed the deadline. The solution is clear - remove the deadline!

Private bills have fees associated with their passage, but the levels were set years ago. Put through as public bills they do not have a "fee" charge. We recommend that the matter of fees and their scale be examined by the Committee on Procedure, and a new, higher fee scale be struck.

12. PRIVATE MEMBERS' HOURS

Participation in Private Members' Hour is very high in the Ontario Legislature - higher, with an average of six speakers, than for some Government business. However, there is a strong suggestion that the number of speakers is more of an indication that the parties feel obligated to put up a reasonable showing than of widespread enthusiasm for Private Members' Hour. Indeed, there is considerable frustration at the futility of the present process.

For a number of years, it has been tacitly agreed that nothing dealt with during Private Members' Hour would come to a vote, so a Member is assured his bill or resolution will never be passed. Under these circumstances it is unusual that Members would retain anything more than a marginal interest in Private Members' Hour. That they do so suggests an attitude which should be encouraged rather than thwarted.

The standard explanation given for the fact that a vote is not taken, is that the taking of votes might lead to situations in which legislation would be passed of which the Government disapproved, and that this would weaken ministerial responsibility. Clearly, however, so long as Government commands a majority in the House, it can defeat any legislation it wishes.* Although in certain circumstances it might be embarrassing to do so (when the bill is a popular one), this is hardly a sufficient reason for depriving Members of a meaningful legislative initiative.

It is to be expected that the taking of votes on Private Members' business would increase the number of bills and resolutions introduced. Some method of deciding which business is to be called must be introduced

* And in any case, the prohibition on money bills means that no Private Member's bill, even if passed, could affect public expenditure.

which would ensure fairness, and which would not simply reward the Member who introduced the most bills first.

The most appropriate method is probably that used in the Houses of Commons in Ottawa and London - by lottery. The names of all Private Members are placed in a hopper and drawn out one at a time. Members then present their items of business (one per Member) in the order in which their names are drawn. If at the time his turn comes a Member has no business he wishes to bring before the House, the opportunity then moves to the next Member on the list.

We would suggest that Friday sittings be allotted to Private Members' business - from 11:00 a.m. until approximately 12:30, and from 2:00 to 5:00 p.m.; that each item of business considered be allotted 1½ hours of discussion; that no Member may speak for longer than ten minutes; that when the vote is called the division bells should be allowed to ring no longer than ten minutes; that every second Friday the morning sitting be devoted to motions listed on the Notice Paper; and that Members be permitted as many notices of motion on the Notice Paper as they wish (and not be limited to only one, as at present).

We would recommend a practice in handling Private Members' Public Bills that the Canadian House of Commons developed in the early 1960s. This is the reference of one or more Private Members' Public Bills to the pertinent standing committee for consideration, and report on the "subject matter" only. This can be done either after first reading or at the second reading.

This method presents an alternative to the Legislature, and to the Government in particular, for examining and disposing of the legislative ideas of Private Members. It permits a detailed presentation in committee, including the calling of witnesses and the presentation of briefs, on the part of the sponsor and other interested parties. It seems to us that this would be particularly useful to Members of the Government Caucus.

Of course, such a practice must develop out of thorough appraisal and discussion beforehand on the part of House leaders and whips. There will be some subjects on which there are several Private Members' Bills and if all these were referred, it would enable a thorough examination of the worth of legislative change without committing either Government or Opposition.

In brief, the practice would develop in this fashion. After the lottery, and the consequent lineup on the Order Paper, a meeting of the House leaders and whips would review the bills from the point of view of determining which ones lend themselves to examination by a committee. One or two bills may be obvious choices. If there is not any preliminary agreement, when the time for second reading stage of a bill is reached and the Member moves his or her bill, he or she can ask that the "subject matter" be referred to such and such a committee. We assume that the Member will have canvassed privately for support for such a referral and, in some cases, may get it and so have support for a motion at the beginning or, more likely, at the end of the time allotted for debate. The motion is an alternative to disposition of the proposed bill by a vote of the Assembly.

13. EMERGENCY DEBATES

Again, the history of the usage of these debates demonstrates the disinclination of Members of the Ontario Legislature to use tools available to them. This one offers a guaranteed opportunity (once adequate notice has been given) to bring any issue to the floor of the House, to speak to it for five minutes, and to elicit a response to it from the other two parties. This much is ensured, even if the debate does not proceed. However, this opportunity was used only twice during the Third Session. In the last two sessions it was not used to any greater extent.

14. DIVISIONS

An excessive amount of legislative time is wasted on the calling of divisions. The reason generally given for allowing the bells to ring as long as they do is to give Members not in the Main Building time to get back to record their votes. (This is particularly true in the case of Ministers who have offices away from Queen's Park.) In view of the large majority the Government has enjoyed, this seems a singularly unnecessary waste of time. It is particularly frustrating for Members who arrive shortly after the bells begin (since they have no way of knowing how long they will ring or when the vote will be taken) and then wait in or near the Chamber, often for well over an hour, while a Minister is brought down from North Toronto. To avoid wasting time, Members are tending to wait longer and longer to answer the summons to a division. This in turn leads to more delay in the taking of divisions - and so the cycle goes.

Part of the answer is to limit the time division bells can ring. Anyone who cannot get to the Chamber in fifteen minutes should have to forego the opportunity to vote. To reduce further the time involved for individual Members, an electronic voting machine might be installed, so a Member may enter the Chamber, register his vote at the Clerk's table (only he would have the key to register in his machine) and, if he is busy elsewhere, leave without having to wait around for other Members.

Parliamentary assistants and Ministers have sessional offices in the Main Building. If they would use them more during sessions it would enhance a continuing ministerial presence in the Legislature, particularly at the calling of divisions.

15. PROCEDURAL DISCUSSION

In one sense there seems to be missing in the Ontario Legislature one aspect of what might be termed "parliamentary spirit". At least

there is not a great deal of procedural discussion or argument, nor is what does occur distinguished in its quality and sureness. This dearth and fuzziness of procedural discussion is often a considerable disadvantage for the Speaker and the Deputy Speaker.

It seems clear that few Members have given special study to parliamentary procedure. This in itself would suggest that opportunities for advantage are often missed. It also means that precedents do not develop into a pattern for meeting and settling expeditiously contentious points.

Something less than full use has been made of the opportunity to bring procedural matters to the attention of the House and to discuss them as points of order. Members often complain outside the Chamber of the way in which House business is ordered but they seldom make an issue of it where they would get the most attention - in the House.

When standing committees are set up, Members complain about their method of operation - the difficulty in substituting Members, insufficient referral of legislation to the committees, etc. But then, indignation spent, they let matters die. They might raise them as points of order each time a substitution is desirable but is not allowed, or when legislation is not referred that could or should be. Members generally seem unwilling to press for the changes they say they would like to see. There seems an overall unwillingness to rock the boat. Few seem willing to champion an issue of reform and to persist in the matter until it is acted upon. Such tactics might lead to unpopularity or even mild ostracism.

For the last session of the Legislature a "breakthrough" in substitutions on committees was achieved; and, as we point out in the section under Committees, the new substitution practice itself got out of hand. When Members do raise issues as points of order there is a disinclination to debate them. The Member seems to feel content to have raised it and rarely presses for a response. Yet these are ideal opportunities to discuss and propose changes to legislative procedure - about which Members express a great deal of concern.

16. COMMITTEES

The general pattern of committee work in the Ontario Legislature is not easy to describe. The amount, the level and the interest in committee activities has varied greatly and understandably.

Clearly, committee work has had three distinct aspects: handling legislation; scrutinizing estimates; and special studies or investigations. Topicality or its lack, the partisan advantages to be gained or lost, the amount of time available to a committee or the length of previous notice of the committee's work, may each or all affect the quantity and quality of the participation. Another abstract but important factor in interest and participation is the future prospect of governmental action on the report of a committee.

It is fundamental that the Legislature is a partisan institution or, more exactly, an assembly in which the dominant motive of most Members much of the time is to attack from, or defend, their party position. Of course, a committee is a microcosm of the Legislature. The Commission does not share the ideas of some political theorists that partisanship can be so muted in committee sittings that the committee as a whole becomes essentially non-partisan and united around common objectives and views. Occasionally this latter situation may prevail on an issue or policy, particularly in a special study or investigation. Certainly, small committees with continuity in membership and a heavy workload may put most of overt partisanship aside as a common expertise and an accommodation to a subject's complexities enhances a sense of committee unity. The basic continuing reality, however, is that the Members will know and not forget that they represent their party in the committee. Despite these distinctions and variations it is possible to make some generalizations about committee activity in the Ontario Legislature.

On the whole, select committee work has generated greater interest

and participation among Members than standing committee work. A number of reasons suggest themselves:

- (1) The scheduling of such committee work (usually during the summer or other prolonged adjournments) and the over-all time frame (usually stretching over several months) make it easier for Members to concentrate their efforts on the work of these committees in a way that is rarely open to them in standing committees;
- (2) The high level of staff assistance - counsel, research staff, consultants, etc. - tends greatly to assist such committees in coming to grips effectively with the subject matter of their studies;
- (3) The fact that each committee is brought into being solely to study a particular subject gives the committee a focus and specialization not present in standing committees;
- (4) The membership of select committees is permanent; substitution is only permitted when a member resigns permanently from the committee. Thus time is not wasted by going over old territory for the benefit of temporary or transient members, and as the work of the committee progresses, its members develop a considerable acquaintance with - sometimes expertise in - the subject under study;
- (5) The committees are smaller in size than standing committees (eleven members vs. eighteen for most standing committees and thirty-six for the Private Bills Committee). This seems to make for more effective work;
- (6) Finally, one cannot ignore the perquisites - per diem payments and expense allowances; and, in the case of a number of select committees, some fascinating fact-finding trips - which have no doubt contributed to the interest in select committees.

In its First Report the Commission recommended abolition of the practice of paying Members per diems for their select committee work, on the basis that the job of an MPP is a full-time one, that Members are paid accordingly, and hence should not be further compensated for work which is part of that job. This recommendation has not yet been implemented, but what seems to be happening is that select committee activity is being cut down and possibly phased out. At present only one select committee is still operating. Of course, if standing committees were to meet when the Legislature is in recess, their members would also be eligible for the per diem.

The Commission strongly endorses this trend towards phasing out select committees. Excellent though much of their work has been, we feel they are a luxury that a legislature with as heavy a workload as the Ontario Legislature cannot afford, particularly when it is as small as the present Legislature. If there is a need for special studies that would be handled best by legislators, then such should be assigned to the standing committees working in those areas.

We do feel, however, that given the proven quality of work produced by most select committees, there is much that standing committees can learn from the way in which select committees have operated.

Standing committee activity is generally concentrated in two areas: the examination of selected government estimates, and of those bills which have been referred by the House to a standing committee after second reading.

Public Accounts, of course, deals in neither of these areas, but has the special function of examining and commenting upon the Public Accounts and the Provincial Auditor's Report.

(The 1972 inquiry by the Standing Committee on Resources Development into the affairs of the Workman's Compensation Board is not a typical area of standing committee activity - such inquiries are usually handled by select committees.)

Of the two major areas, Estimates seem to excite greater interest in MPPs. While any legislation sent to a standing committee will be examined in the House both before and after the committee stage, Estimates sent to committee will really only be dealt with there (although there is a possibility of a short 2½ hour debate when these Estimates are reported out of the committee). In addition, the study of Estimates presents a broad-ranging opportunity to examine departmental activity, and in general to take more initiatives in discussion than is possible in the study of most bills. (It should also be noted that there is a Hansard record kept of all Estimates Committee meetings, but not of any other standing committee proceedings.)

Most bills receive a rather cursory examination in committee. This may be due to a number of factors: lack of sufficient notice that a bill is going to be sent to standing committee, or of when committee meetings are to be held; a shortage of Members to people the committees - particularly among the Opposition parties; and the recently adopted practice of allowing unlimited substitution (often with little or no notice of the substitution). This latter reform was one pressed for over a number of years by Members who felt this was the appropriate solution to the impossible task of being in several places at once. When a Member is unable to attend a meeting of a committee of which he is a member or, alternatively, when a Member with a particular interest wishes to participate in the deliberations of a committee of which he is not a member, a substitution of Members of the same party is arranged. The difficulty with this practice as it is now developing is that there is little if any notice given of such substitutions. One has the impression that whoever walks by the committee room when a meeting is commencing may quickly find himself a member of the committee.

This leads to a certain disorder in committee meetings, and tends to result in repetitious proceedings with a distinct lack of continuity or focus. Although very sympathetic to the problem which has led to this innovation in committee procedure (substitution had previously only

been available to committees examining Estimates), the Commission feels it can be met in part by other measures - for instance, more effective scheduling of all the business of the House and its committees, as discussed elsewhere in this report; and a restructuring of the standing committee system (a proposal we will return to shortly). We explain later the practice on substitutions which we believe to be most useful.

One notable exception to many of these general remarks on committee examination of legislation is the Standing Committee on Private Bills. It is an amalgam of the Committees on Procedural Affairs and Administration of Justice, and is therefore an unwieldy committee of thirty-six members. Its meetings are often long and spirited and attract much participation from the members. Attentiveness and concern are particularly and understandably shown by Members from whose ridings the bills emanate.

It is certainly desirable and satisfactory that Private Bills receive such adequate committee examination. It is not entirely equitable, however, that bills with a local and usually particular import should receive such a high proportion of legislative time. That they do is probably another indication of the strong constituency preoccupation among Members at Queen's Park. (It is notable that by far the longest and most detailed section of the Standing Orders is that dealing with procedure governing Private Bills.)

At present committees only meet when a particular item of business is referred to them. The timing of meetings is generally a consensus decision by the committee within the following constraints: unless they are studying estimates they may only sit concurrently with the House if they have special permission from the House; as a matter of practice no committee will sit during a recess without House permission; meetings are only held if the Minister (or parliamentary assistant) whose bill or estimates are under consideration is free to attend. There is evidence that attendance at committee meetings ranks rather low in the priorities of some Cabinet Ministers.

It is our impression that committees are more than capable of deciding when it would be judicious to meet concurrently with the House. This assumes, as we have elsewhere urged, that there must be greater advance notice of what the business of the House is going to be at any given time.

Committees should also feel free to sit during a recess if they wish, and should perhaps give slightly less consideration or respect than they have to the Ministry timetable. Such concern has limited severely the time available for committee meetings.

The Commission does not wish to make any recommendations which would undermine the doctrine of ministerial responsibility or expose civil servants to unfair and constitutionally incorrect examination. We believe, however, that if senior officials and members of committees both know and accept the constitutional principle, it is possible, practical and expeditious to have officials give evidence and reply to questions in committees without the Minister concerned always being present. When he cannot be present and he gives permission for his officials to appear, we think the traditions of fair behaviour in the Legislature's committees will safeguard his ministerial responsibility. So will the clear understanding that an official may always refuse to answer any question, in whole or in part, and refer it to the Minister's consideration. That is, when a question requires an answer expressing opinions on policy or interpretations of Governmental (particularly Cabinet) considerations, the official may defer that question to the Minister, and he cannot be forced by a vote of the committee to answer it. On the other hand, when the committee, through its chairman, decides it is desirable that the Minister himself appear before the committee, the request should be given prompt ministerial attention and be fitted into his timetable if at all possible.

A practice has developed in committees of the Legislature which seems unfair to those who attend and take part. Chairmen will often postpone a vote on a matter until "a call" has gone out for Members. This is a practice that should be stopped.

As we have noted elsewhere, a major problem faced by the Ontario Legislature is how to deal effectively with an increasing volume of complex, provincial business. This task is made no easier by the relatively small number of MPPs. An active committee system has the potential to assist greatly in the handling of this workload. We would suggest a number of changes towards this end.

As discussed above, one of the main functions of committees has been to examine legislation. Essentially this replaces what would otherwise be the committee stage of the bill in the House. It also facilitates representations from the public. Sometimes it enables more prolonged or detailed study of a bill. Of course, it can be a means to increase the efficiency of handling the business of the whole Legislature.

All of these factors seem laudable. We think they are best met by a committee which is something of a mini-assembly - a largish (perhaps 20-25 members) committee. Each one would be constituted simply for the purpose of examining a particular bill on an ad hoc basis. Each party would designate its particular Members on the basis of considerations such as interest, availability, etc. There should be freedom to substitute Members provided written notice were given to the committee chairman 24 hours before a meeting. We envisage that once the decision had been taken by the House to send a bill to standing committee the party whips would immediately draw up lists of membership and the committees could begin work almost immediately. We would recommend the same ad hoc committees for the consideration of private bills - the object for both private and public bills being to provide a debating forum in which a bill would receive consideration.

For other kinds of committee work we recommend a number of small committees (7-8 members) of permanent, non-substitutable membership which would be more specialized in function. One such committee would be Public Accounts. Its function and role would continue much along its present lines. There would also be three subject area committees - in Justice, Social Development, and Resources Development. These would examine those Estimates falling within their subject areas which have been referred to committees. They would conduct any special inquiries which might be necessary within their areas.

We have talked elsewhere of the difficulty presented to the Legislature in its attempt to monitor provincial business in the hands of the large number of boards and commissions to which so much has been delegated. As a step towards dealing with these agencies, we would suggest that any annual report which must be presented to the Legislature may be referred for study to the appropriate specialist standing committee on petition of one third of the membership of the House.

We would establish a further small, permanent standing committee with responsibility for examination and report on: (a) those petitions presented to the Assembly which are referred to the committee; (b) any undertaking made by a Minister to a Member of the Assembly which is not fulfilled within 10 days of its being made (the announcement in the House by the Member that the undertaking is unfulfilled would be examined by the Speaker who would rule whether or not the question should go to the committee); and (c) reports to the Legislature by the Provincial Ombudsman.

Each of these small committees would be appointed within 10 days of the commencement of a session, and would continue in existence until the commencement of a new session.

The total membership of these five permanent committees would be between 35 and 40 Members (no Member sitting on more than one committee).

We anticipate that the small size and permanent nature of these committees would make positions on them much sought after, particularly given the importance of the work they will be doing. We see this as a useful counterweight to the present situation, particularly on the Government side, in which the most attractive positions are generally ministerial ones (e.g. parliamentary assistantships, etc.), not legislative. While substitution for these small committees is unlikely to be much used and should be rare, there should be a provision for a change in membership in the rules, including the requirement that notice and motion of substitution be given the Legislature.

Members who sit on these small specialist committees should not be precluded in any way from sitting on the Committees on Procedure and Administration which we recommended in our Second Report. The role we envisage for these Committees, as we indicated, is quite different from that of other committees. Their concerns should not essentially be partisan in the way that other committees' business will be. We consider it desirable to draw from as broad a base of Members as possible in making up the membership of these Committees.

In the committee system which we have outlined, it is to be expected that the responsibilities of chairmen will be considerably more onerous, both in supervising the administration and organization of the committee, and in presiding over meetings. To assist in finding and training chairmen and to ensure that there is more consistency to the procedural rulings handed down in committees, we would recommend the establishment of a permanent panel of Members from which all committee chairmen would be chosen. This panel would be under the supervision of the Speaker, and would be charged with acquiring a detailed knowledge of procedure and developing a consistent, effective, and updated body of procedure for the Ontario Legislature. Such a panel would be especially useful and flexible in providing chairmen for the ad hoc legislative committees.

This panel would be appointed by the parties in proportion to their representation in the House. The selection of a member of the panel as

chairman for a particular committee would be done by consultation among the House leaders. This system of "panel" chairmen has worked effectively in the British Commons. It must be noted, of course, that at Westminster these "panel" chairmen see themselves and are seen to be neutral. In the same sense the Speaker is neutral.

At the present time the Standing Orders are virtually silent on the procedure governing committees. We would recommend this be rectified by a section listing the committees, and clearly spelling out committee procedures, rights and powers. Included in the latter should be the right of each committee to travel freely within the Province, and to appoint counsel on an ad hoc basis subject only to the sort of budgetary approval outlined in the Second Report of the Commission.

The Standing Orders should also spell out in greater detail provisions dealing with -

- rules governing the examination of witnesses
- the possible rights of witnesses to counsel
- the payment of expenses to witnesses whom the committee invites to appear before it
- a mechanism for reporting by committees which encourages a large number of such reports being debated in the House
- the power of committees to appoint sub-committees and steering committees
- the power of committees to determine the manner, location and timing of their meetings
- the power to appoint staff under certain circumstances and subject to certain constraints
- the procedure on who shall write a committee's report and what consideration shall be given to it in committee.

The nature of the committee structure should be specified solely within the Standing Orders, so the House can change that structure to meet changing requirements. In particular, the present statutory requirement that there be a Regulations Committee should be repealed, and no further statutory requirements made to govern the existence of committees.

We would point out the important need for an official Hansard record of all committee proceedings. Among the reasons why such a record of Ontario committee proceedings is necessary are:

- a) to prevent repetition in the House of what has gone on in committee. Recently, the House witnessed practically a duplication in the House of a committee study of an environment bill. Members were anxious to repeat the issues they raised in committee in order that they be recorded; the Chair could not rule this discussion out of order because there is no record of committee proceedings;
- b) to ensure that there be an accurate record of proceedings which may affect the rights and reputations of individuals or groups;
- c) so the answers to questions Members ask about the import and intent of bills in committees, and the objects they hope to achieve by amendments, may be recorded and be available for consultation by affected members of the public and those administering legislation;
- d) to provide a record which Members can consult when they are writing committee reports;
- e) to provide an historical/archival/precedent record of important issues of the day;

- f) the consideration of business which occurs in committee is as important as that which occurs in the House, and there is no reason why there should be a written record in the latter and not the former.

Even if there should be substance to the argument that civil servants advise and function more freely and effectively in an atmosphere of secrecy and anonymity, such an argument has no place when talking about the discussions and functioning of elected representatives dealing with public legislation and spending.

After six years experience in covering and publishing the proceedings of the standing committees examining Estimates, the Hansard Reporting Service of the Assembly gave us an account of difficulties encountered. These difficulties underline our concern about reform of the committees.

The Service has been hampered by "less than adequate meeting and recording facilities" but also by "the informal nature of the meetings". Therefore, the Hansard Chief suggested that:

- (a) permanent committee rooms be established, each with built-in sound recording and seating provisions that have a direct relationship to placing and use of microphones;
- (b) more formal and standardized conduct of meetings be instituted, including clear indication of commencement and adjournment, recognition of who has "the floor", some continuity in location of the Member in a seating arrangement, and observance of the rule that only one Member speak at any one time.

The Service could provide both sounder transcripts and quicker publication if these recommendations are carried out. We feel they should be recorded here, simply because the impressions they convey of legislative committee work are the same as ours.

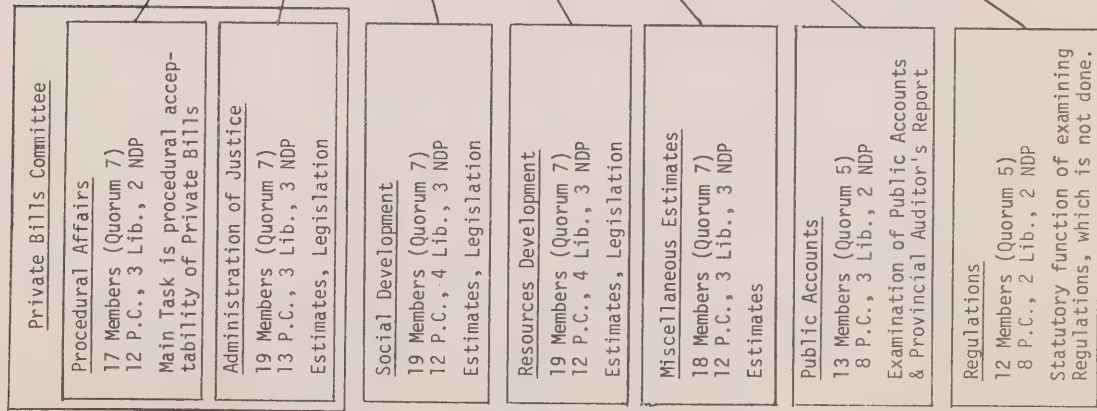
Note that in the part of our report dealing with Private Members' Hours there is a discussion about a suggested practice of referring only "the subject matter" of some Private Members' Public Bills to the specific standing committee that suits its content. Our assumption is, however, that if a Private Member's Public Bill passes second reading it would be either referred to an ad hoc legislative committee or go through the Committee of the Whole House.

An effective committee system needs the services of a regular and trained group of committee clerks. By "regular" we mean that a "permanent" committee should be able to have the same clerk over a session, if not over the term of a legislature. The training must come through the Clerk of the House from whose staff committee clerks should be drawn. In effect, this is a recommendation that the Clerk of the House be empowered to add to his staff and to require a higher standard in the qualifications of such staff.

(See charts, Pages 77 and 78)

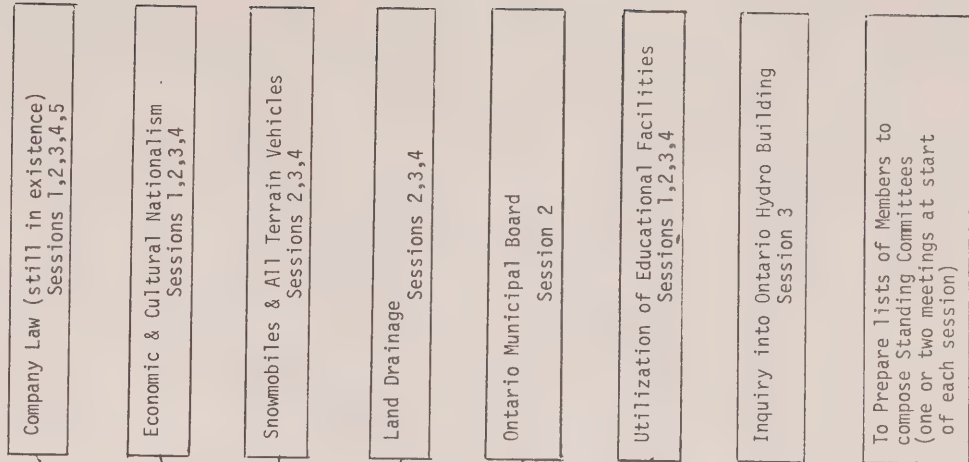
PRESENT COMMITTEE STRUCTURE

STANDING



SELECT

(during the 29th Legislature)
[all 11 Members (Quorum 6)]



PROPOSED COMMITTEE STRUCTURE

AD HOC LEGISLATION COMMITTEES

[all 20 - 25 Members (Quorum 10-12)]

Private Bills X_1, X_2, X_3

Public Bill Y_1

Public Bill Y_2

LEGISLATURE
125 M.P.'s

Procedure
11 Members
(see 2nd Report)

&

Administration
11 Members
(see 2nd Report)

Consideration of Estimates

SMALL SPECIALIST COMMITTEES

[all 7 - 8 Members (Quorum 4)
no over-lapping membership]

Social Development
Estimates; Board & Agency Reports;
Special Studies

Resources Development
Estimates; Board & Agency Reports;
Special Studies

Justice
Estimates; Board & Agency Reports;
Special Studies

Public Accounts
Examination of Public Accounts
and Provincial Auditor's Report

Petitions, Ombudsman's Reports
and Ministerial Undertakings

17. INTRODUCTION OF VISITORS

One practice of the Legislature deserves comment and action. It is the one where Members rise and draw the attention of the Assembly to the presence in the gallery of certain groups, often constituency people, often school children from such and such a school. This honour and notice should surely be confined to the occasional distinguished visitor such as visiting ambassadors, premiers, ministers, etc. Even in these cases the Speaker should be given notice.

Two examples from the Fifth Session will make our point. Once the Leader of the Opposition was in the midst of an important contribution to a debate, when he was interrupted by the litany of a number of school classes in the gallery. On another occasion an ambassador from a foreign country was recognized, along with half a dozen school groups. Clearly, this practice needs to be brought in line with the scale of activity to which the Legislature is now committed.

18. WEDNESDAY SITTINGS

The original purposes of forfeiting Wednesday each sitting week as a day for business in the Chamber were to provide a weekly opportunity for concentration on committee work, and to help make Wednesday an effective "caucus" day. These purposes have not been achieved. Perhaps the only advantage to this holiday from a meeting of the Legislature is that Cabinet meetings which do not conflict with the sitting have been expedited. We recommend that the Legislature resume sittings on Wednesdays, particularly in line with our recommendation to make Fridays more of a Private Members' day.

19. TAKING NOTES IN THE PUBLIC GALLERIES

With respect to this subject we canvassed a range of opinions. The Press Gallery also made representation against the rule that visitors in the public galleries may not take notes. To many, this is an anachronism. At first thought the rule does seem unnecessarily restrictive. The rule arose out of concerns in the long-ago past of the British House of Commons over the reproduction outside the provenance of the House of "pirated" and inaccurate, incomplete or unfair reports of proceedings and what had been said. The taking of notes by visitors, whether by students, or ordinary citizens interested in the questions and answers or the debate, can be seen as so innocuous in so many cases that there is a readiness to say - wipe out the rule. After consideration we can only agree in part.

There are four obvious means by which persons in the Assembly who are other than Members themselves, the Clerk and his staff, or members of the Press Gallery might record some, or any, aspect of the activities: by hand-written notes, by sound tape recorder, by camera, or by sketch book.

Elsewhere we recommend the installation and operation of an electronic Hansard (sound and/or sound and picture), and access to this record by radio and television broadcasters.

We do not think members of the public should be permitted to use their own tape recorders or cameras in the Assembly. The potentials for abuse, misuse, and the taking of unfair, critical advantage seem so obvious to us that there is no need to spell them out. Somewhat the same may be said about the use of sketchbooks. For both single-shot cameras and for artists with sketchbooks, we think occasional exceptions could be made by the Speaker in consultation with the Legislature's Procedural Committee.

For those individuals and groups who wish to make public use of the sound, or the sound and picture, record of the Assembly (which we recommend) there should be means or channels so they can arrange for access and the copying of a particular part of the proceedings. For example, we can envisage the constituency association of an MPP arranging to obtain and use the sound, or sound-picture, record of their MPP in debate in the Legislature for local display or presentation; or a lobby group - say the Ontario Forestry Association or the Lumber and Sawmill Workers' Union - wishing to obtain a videotape of a debate on legislation relating to silvicultural methods and requirements for the educational program it may wish to carry out for its members. We foresee that the channels (and fees) for such arrangements would be through the administration created under the Speaker's Office for the electronic Hansard. Such provisions or opportunities are enough, we feel, to cover those who want use of the sound, or sound-picture, record.

At present any member of the public can obtain an accurate printed record of what has been said in the House by acquiring Hansard. This record is available three to four days later. Are there cases where the delay in waiting for Hansard is unfair to the citizen attending the debates? This prompts another question: why would anyone in the gallery want to take notes and to what use would they wish to put such notes? We can easily imagine situations where individuals alone, or individuals representing groups or associations, would find it useful to have for immediate use that day a synopsis of, or quotations from, what has been said in the Legislature. The test that comes to mind is the intention of that use. Is it to publish to the public generally what has been said? If so, we think it would be wrong simply because there would be no guarantee as to the accuracy of what has been purported to have been said. Such accuracy rests in the official Hansard. Therefore, we do not feel ready to recommend the unlimited taking of notes by anyone in the public galleries without reservation.

Therefore we recommend that visitors to the public galleries be informed, through clear and easily understood instructions on the brochure each is given on entry, that he or she may take notes, with the caution that the publishing and dissemination of such notes which purport to be a record in a public way is a breach of the privileges of the Legislature and punishable by its authority.

20. COURTESY

It may be gratuitous, even presumptuous, for the Commission to recommend greater courtesy to the Members of the Legislature - courtesy to each other, to the table staff, and to the other employees of the Legislature.

The Ontario Legislature is not a grand place in size. Many people are packed into and around it, doing their work. The hours during sittings are long; partisanship can rankle; so can relations with reporters and caucus staff. Such crowded and often exasperating conditions, developing familiarity over a Legislature's sessions, the natural, partisan bite, and the competitive nature of aspiring men and women, sorely test common courtesy and consideration for others.

Pettiness is "point-scoring". Discourtesy is not giving proper notice to the House or advancing something unilaterally without discussion with Members of the other parties.

Our commendation of courtesy may be seen by some Members as a slur upon much good-natured camaraderie that does pervade the Legislature. We have noted the latter. We also think there are too often lapses from the standards which should, and usually do, prevail.

